



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 28, 2011

Sheriff Kenneth Hammack
Polk County Sheriff's Office
1733 North Washington
Livingston, Texas 77351

OR2011-15822

Dear Sheriff Hammack:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 435339.

The Polk County Sheriff's Office (the "sheriff") received a request for incident report number S1107619. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note you have redacted social security numbers, names, and a date of birth of individuals involved in the incident at issue. Pursuant to section 552.301 of the Government Code, a governmental body that seeks to withhold requested information must submit to this office a copy of the information, labeled to indicate which exceptions apply to which parts of the copy, unless the governmental body has received a previous determination for the information at issue. Gov't Code §§ 552.301(a), .301(e)(1)(D). Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. *See id.* § 552.147(b). You do not assert, however, nor does our review of our records indicate, that you have been authorized to withhold any of the remaining redacted information without seeking a ruling from this office. *See id.* § 552.301(a); Open Records Decision No. 673 (2000). As such, these types of information must be submitted in a manner that enables this office to determine whether the information comes within the scope of an exception to disclosure. In this instance, we can discern the nature of the redacted information; thus, being deprived of that information does not inhibit our ability to make a

ruling. In the future, however, the sheriff should refrain from redacting any information it is not statutorily authorized to redact from information it submits to this office in seeking an open records ruling.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Section 552.101 encompasses information made confidential by other statutes, including section 261.201 of the Family Code, which provides, in relevant part:

(a) [T]he following information is confidential, is not subject to public release under [the Act] and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). The submitted incident report reflects it was used or developed in an investigation by the sheriff of alleged or suspected child abuse. *See id.* § 261.001(1) (defining “abuse” for purposes of Fam. Code ch. 261); *see also* Penal Code § 22.04(c) (defining “child” for purposes of injury to a child as a person 14 years of age or younger). Accordingly, we determine the submitted report is within the scope of section 261.201 of the Family Code. You do not indicate the sheriff has adopted a rule governing the release of this type of information. Thus, we find the sheriff must withhold the submitted report in its entirety under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.¹ *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute).

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General’s Open Government Hotline, toll free,

¹As our ruling is dispositive, we need not address your argument against disclosure.

at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in cursive script that reads "Leah B. Wingerson".

Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

Ref: ID# 435339

Enc. Submitted documents

c: Requestor
(w/o enclosures)