



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 5, 2012

Ms. Michelle T. Rangel
Assistant County Attorney
Fort Bend County
301 Jackson Street, Suite 728
Richmond, Texas 77469

OR2012-00205

Dear Ms. Rangel:

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# 441331.

The Fort Bend County Sheriff's Office (the "sheriff") received a request for all 9-1-1 calls from two specified phone numbers made during a specified time period and any visits made to a specified address. You claim that 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 representative sample of information.¹

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. This section encompasses information protected by other statutes, including section 261.201 of the Family Code, which provides as follows:

(a) Except as provided by Section 261.203, the following information is confidential, is not subject to public release under [the Act], and may be

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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.

...

(k) Notwithstanding Subsection (a), an investigating agency, other than the [Texas Department of Family and Protective Services] or the Texas Youth Commission, on request, shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect, or to the child if the child is at least 18 years of age, information concerning the reported abuse or neglect that would otherwise be confidential under this section. The investigating agency shall withhold information under this subsection if the parent, managing conservator, or other legal representative of the child requesting the information is alleged to have committed the abuse or neglect.

Fam. Code § 261.201(a), (k). Upon review, we find report number 11-25780 was used or developed in an investigation of alleged or suspected child neglect under chapter 261 of the Family Code, so as to fall within the scope of section 261.201(a). *See id.* §§ 261.001(4) (defining “neglect” for purposes of chapter 261 of the Family Code), 101.003 (defining “child” for purposes of Fam. Code title 5). In this instance, the requestor is a parent of the child victim listed in the report, and the requestor is suspected of committing the alleged neglect. As such, report number 11-25780 may not be provided to the requestor pursuant to section 261.201(k) of the Family Code. *Id.* § 261.201(k) (stating child’s parent may not obtain information subject to section 261.201(a) concerning reported abuse or neglect if parent is alleged to have committed abuse or neglect). Therefore, we conclude the sheriff must withhold report number 11-25780 in its entirety under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.²

Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy, which protects information that (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540

²As our ruling is dispositive, we need not address your remaining arguments against disclosure for this information.

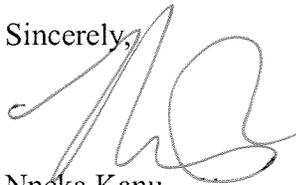
S.W.2d 668, 685 (Tex. 1976). The types of information considered intimate or embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated the requestor knows the identity of the individual involved, as well as the nature of certain incidents, the entire report must be withheld to protect the individual's privacy. In this instance, the submitted information reflects the requestor knows the identity of the individual involved, as well as the nature of the incident at issue in report number 11-24459. Therefore, withholding only the individual's identity or certain details of that incident from the requestor would not preserve the subject individual's common-law right of privacy. Accordingly, the sheriff must withhold report number 11-24459 in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy.³

In summary, the sheriff must withhold report number 11-25780 in its entirety under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. The sheriff must withhold report number 11-24459 in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy.

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, 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,



Nneka Kanu
Assistant Attorney General
Open Records Division

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³As our ruling is dispositive, we need not address your remaining arguments against disclosure for this information.

Ref: ID# 441331

Enc. Submitted documents

cc: Requestor
(w/o enclosures)