



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 19, 2012

Ms. Katie Lentz
Open Records
Williamson County Sheriff's Office
508 South Rock Street
Georgetown, Texas 78626

OR2012-16741

Dear Ms. Lentz:

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# 470459.

The Williamson County Sheriff's Office (the "sheriff's office") received a request for two incident reports involving a named individual as a victim. 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 information.

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 exception encompasses information made confidential by other statutes, such as section 261.201 of the Family Code. Section 261.201 provides, in relevant part:

(a) [T]he following information is confidential, is not subject to public release under Chapter 552, Government Code, 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). You state case number 2011-05-03306, which you have marked, was used or developed in an investigation under chapter 261. *See id.* §§ 261.001(1) (defining “abuse” for purposes of chapter 261 of the Family Code), 101.003(a) (defining “child” for purposes of section 261.201 as person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes). Therefore, case number 2011-05-03306 is within the scope of section 261.201(a). You do not indicate the sheriff’s office has adopted a rule governing the release of this type of information; therefore, we assume no such regulation exists. Given that assumption, we conclude case number 2011-05-03306 is confidential pursuant to section 261.201 of the Family Code and must be withheld in its entirety under section 552.101 of the Government Code.¹

Section 552.108(a)(2) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]” Gov’t Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state case number 2011-05-03675 pertains to a case that has concluded and the conclusion was a result other than conviction or deferred adjudication. Based on your representation and our review, section 552.108(a)(2) of the Government Code is applicable to case number 2011-05-03675.

We note section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). Basic information refers to the basic front page information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177, 186-188 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). The sheriff’s office must release basic information, including a detailed description of the offense, even if the information does not literally appear on the front page of an offense or arrest report. *See Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by Houston Chronicle).*

As you have noted, portions of the basic information in case number 2011-05-03675 are subject to common-law privacy. Section 552.101 of the Government Code also encompasses

¹As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

the doctrine of common-law privacy, which protects information if it (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 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *Id.* at 681–82. The type of information considered highly 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. Upon review, we find the information you have marked is highly intimate or embarrassing and not of legitimate public concern. Therefore, in releasing basic information, the sheriff's office must withhold the information you have marked pursuant to section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the sheriff's office must withhold case number 2011-05-03306 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. With the exception of basic information, the sheriff's office may withhold case number 2011-05-03675 under section 552.108(a)(2) of the Government Code. In releasing basic information, the sheriff's office must withhold the information you have marked under 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,



Jasmine D. Wightman
Assistant Attorney General
Open Records Division

JDW/dls

Ref: ID# 470459

Enc. Submitted documents

c: Requestor
(w/o enclosures)