



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 7, 2012

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

OR2012-17919

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# 472057.

The Fort Bend County Sheriff's Office (the "sheriff's office") received a request for call slips and offense reports involving a specified address during a specified time period. 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 representative sample of information.<sup>1</sup>

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

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<sup>1</sup>We assume 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 those records contain substantially different types of information than those submitted to this office.

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.

(l) Before a child or a parent, managing conservator, or other legal representative of a child may inspect or copy a record or file concerning the child under Subsection (k), the custodian of the record or file must redact:

...

(2) any information that is excepted from required disclosure under [the Act], or other law; and

(3) the identity of the person who made the report.

Fam. Code § 261.201(a), (k), (l)(2)-(3). Upon review, we find the submitted information consists of a police report used or developed in an investigation of alleged or suspected child abuse conducted by the sheriff's office. *See id.* § 261.001(1)(E) (definition of child abuse includes sexual assault under Penal Code section 22.011); *see also* Penal Code § 22.011(c)(1) (defining "child" for purposes of Penal Code section 22.011 as a person younger than 17 years of age). Accordingly, we determine the submitted report is within the scope of section 261.201 of the Family Code. However, the requestor is a parent of the child victim listed in the report and is not alleged to have committed the alleged abuse. Therefore, the submitted report may not be withheld from this requestor on the basis of section 261.201(a). *See* Fam. Code § 261.201(k). However, section 261.201(l)(2) states that

any information excepted from required disclosure under the Act or other law must be withheld from disclosure. *Id.* § 261.201(1)(2). You also assert sections 552.101 of the Government Code in conjunction with common-law privacy and section 552.108 of the Government Code for the submitted report. Accordingly, we address these arguments for this report.

Section 552.108(a)(1) 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 . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). A governmental body must reasonably explain how release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted report relates to a pending criminal investigation. Based on your representation and our review of the information, we conclude release of this information would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court describes law enforcement interests that are present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Therefore, section 552.108(a)(1) of the Government Code is applicable to the submitted report.

We note, however, 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). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*, and includes the complainant’s identity. *See* 531 S.W.2d at 186-88; *see also* Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Section 261.201(1)(3) of the Family Code states the identity of the reporting party must be withheld when a governmental body releases information under section 261.201(k). Fam. Code § 261.201(1)(3). Thus, with the exception of basic information, the sheriff’s office may withhold the submitted information under section 552.108(a)(1) of the Government Code. However, in releasing basic information, the sheriff’s office must withhold the identifying information of the reporting party under section 552.101 of the Government Code in conjunction with section 261.201(1)(3) of the Family Code.

We understand you to argue a portion of the basic information in the submitted report is protected by section 552.101 of the Government Code in conjunction with common-law privacy. Section 552.101 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. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The type 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. *See id.* at 683. Information that either identifies or tends to identify a victim of sexual assault or other sex-related offense must be withheld under common-law privacy. *See* Open Records Decision Nos. 393 (1983), 339 (1982). However, as noted above, the requestor is a parent of the minor with the privacy interest and, therefore, has a special right of access to information that would ordinarily be withheld to protect the child's common-law privacy interests. *See* Gov't Code § 552.023(b) (governmental body may not deny access to person to whom information relates or person's agent on grounds that information is considered confidential by privacy principles). Accordingly, the sheriff's office may not withhold any of the basic information from this requestor under section 552.101 on the basis of common-law privacy.

In summary, except for basic information, the sheriff's office may withhold the submitted report under section 552.108(a)(1) of the Government Code. In releasing the basic information, the sheriff's office must withhold the reporting party's identifying information under section 552.101 of the Government Code in conjunction with section 261.201(l)(3) of the Family Code.<sup>2</sup>

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](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,



Ana Carolina Vieira  
Assistant Attorney General  
Open Records Division

ACV/ag

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<sup>2</sup>We note the requestor has a special right of access to the information being released. *See* Fam. Code § 261.201(k). Accordingly, if the sheriff's office receives another request for this information from a different requestor, then the sheriff's office should again seek a decision from this office. *See* Gov't Code §§ 552.301, .302; Open Records Decision No. 673 (2001).

Ref: ID# 472057

Enc. Submitted documents

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c: Requestor  
(w/o enclosures)