



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 28, 2009

Mr. David K. Walker  
County Attorney  
Montgomery County  
207 West Phillips, Suite 100  
Conroe, Texas 77301

OR2009-12181

Dear Mr. Walker:

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# 353759.

The Montgomery County Sheriff's Department (the "department") received a request for offense report number 07A006315. You claim the submitted incident report is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception 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 section encompasses information protected by other statutes, such as section 261.201(a) of the Family Code, which provides:

(a) The 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

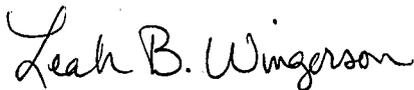
used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). You indicate the submitted incident report was used or developed in an investigation of suspected child abuse. *See id.* § 261.001(1)(E) (definition of child abuse includes indecency with a child under Penal Code section 21.11); *see also id.* § 101.003(a) (defining "child" for purposes of this section 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). Based on your representation and our review, we find this information is within the scope of section 261.201 of the Family Code. You have not indicated the department has adopted a rule that governs the release of this type of information; therefore, we assume that no such regulation exists. Given that assumption, the department must withhold the submitted incident report under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.<sup>1</sup> *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](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 at (512) 475-2497.

Sincerely,



Leah B. Wingerson  
Assistant Attorney General  
Open Records Division

LBW/dls

---

<sup>1</sup>We note that effective September 1, 2009, information concerning alleged or suspected abuse or neglect of a child may not be withheld from the child's parent under section 261.201(a) of the Family Code, unless the parent requesting the information is alleged to have committed the abuse or neglect. Act of June 3, 2009, 81st Leg., R.S., S.B. 1182, § 13 (to be codified as an amendment of Fam. Code § 261.201).

Ref: ID# 353759

Enc. Submitted documents

c: Requestor  
(w/o enclosures)