



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 22, 2010

Ms. Deborah F. Harrison
Assistant District Attorney
Special Crimes Division - Civil Section
Collin County District Attorney's Office
210 South McDonald, Suite 324
McKinney, Texas 75069

OR2010-03959

Dear Ms. Harrison:

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# 373399.

The Collin County District Attorney's Office (the "district attorney") received a request for a specified video. You claim that the district attorney is not required to comply with the request for information pursuant to section 552.028 of the Government Code. Alternatively, you claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered your arguments and reviewed the submitted information.

Section 552.028 of the Government Code provides in relevant part:

(a) A governmental body is not required to accept or comply with a request for information from:

(1) an individual who is imprisoned or confined in a correctional facility; or

(2) an agent of that individual, other than that individual's attorney when the attorney is requesting information that is subject to disclosure under [the Act].

(b) This section does not prohibit a governmental body from disclosing to an individual described by Subsection (a)(1), or that individual's agent, information held by the governmental body pertaining to that individual.

Gov't Code § 552.028(a)-(b). You argue that the requestor made the present request for information as a representative of an inmate. To support your assertion that the requestor makes the request as an agent of an inmate, you state that the requestor is the inmate's friend. However, the fact that the requestor is the inmate's friend does not in itself establish that she submitted the request as an agent of the inmate. As you have not provided any additional information establishing that the requestor is in fact acting as an agent of an inmate, we cannot conclude that section 552.028 is applicable in this instance. Accordingly, we will address your arguments against disclosure under the Act.

Section 552.101 of the Government Code exempts from public 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 protected by other statutes. Section 261.201(a) of the Family Code provides as follows:

(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.

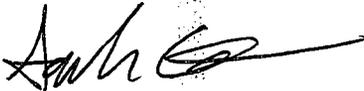
Fam. Code § 261.201(a). The submitted information consists of a videotape that was used or developed in an investigation under chapter 261 of the Family Code. *See id.* § 261.001 (defining "abuse" and "neglect" for purposes of Fam. Code ch. 261); *see also id.* § 101.003(a) (defining "child" for purposes 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). Thus, this information is within the scope of section 261.201. You

do not indicate the district attorney has adopted a rule governing the release of this type of information; therefore, we assume that no such regulation exists. Given that assumption, we conclude the submitted videotape is confidential pursuant to section 261.201 of the Family Code, and the district attorney must withhold it in its entirety under section 552.101 of the Government Code. As this ruling is dispositive, we need not address your remaining arguments against disclosure.

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,



Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/eeg

Ref: ID# 373399

Enc. Submitted documents

c: Requestor
(w/o enclosures)