



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 14, 2014

Mr. John K. McKinney, Jr.  
Assistant County Attorney  
Montgomery County  
501 North Thompson, Suite 102  
Conroe, Texas 77301

OR2014-06095

Dear Mr. McKinney:

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# 519616 (Montgomery County Open Records Request File No. 14PIA0041).

The Montgomery County Sheriff's Office (the "sheriff's office") received a request for the DVD interview located in the crime lab pertaining to a specified case. 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 information.

Initially, we note you have submitted the police report, audio recordings, and multiple interviews. As noted above, the requestor only requests the DVD interview located in the crime lab pertaining to the specified case. Accordingly, the remaining submitted information is not responsive to the instant request. This ruling does not address the public availability of any information that is not responsive to the request, and the sheriff's office is not required to release such information in response to this request.

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 protected by other statutes, such as section 261.201 of the Family Code, which provides in relevant part:

(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 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.

(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[.]

Fam. Code § 261.201(a), (k), (l)(2). Upon review, we find the responsive information was used or developed in an investigation of child abuse under chapter 261 of the Family Code. *See id.* § 261.001(1) (defining “abuse” for purposes of section 261.201 of Family Code). Thus, the responsive information is generally confidential under section 261.201(a) of the Family Code. We note, however, the requestor is the representative of the mother of the child victim for purposes of section 261.201(k). Furthermore, the mother is not alleged to have committed the alleged or suspected abuse. Accordingly, the sheriff’s office may not withhold the responsive information from this requestor under section 261.201(a). *Id.* § 261.201(k). However, section 261.201(l)(2) states any information excepted from

required disclosure under the Act or other law may still be withheld from disclosure. *Id.* § 261.201(1)(2). Thus, we will address your argument under section 552.108 of the Government Code.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than 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 concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the responsive information relates to a concluded criminal investigation that did not result in conviction or deferred adjudication. Based on your representations and our review, we conclude the sheriff's office may withhold the responsive information in its entirety under section 552.108(a)(2) of the Government Code.

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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Lee Seidlits  
Assistant Attorney General  
Open Records Division

CLS/tch

Ref: ID# 519616

Enc. Submitted documents

c: Requestor  
(w/o enclosures)