



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 29, 2011

Mr. Rodolfo Ramirez
Assistant District Attorney
Fort Bend County
301 Jackson Street
Richmond, Texas 77469

OR2011-09302

Dear Mr. Ramirez:

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# 422424.

The Fort Bend County District Attorney's Office (the "district attorney") received a request for any audio recordings, video recordings, and/or transcripts pertaining to interviews of a named individual regarding a specified incident. You claim the submitted information 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 made confidential by other statutes, such as section 261.201(a) 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 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 audio and video recordings reflect they were used or developed in an investigation by the Fort Bend County Sheriff's Office (the "sheriff") of alleged child abuse. *See id.* § 261.001(1) (defining "abuse" 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). Upon review, we find the submitted information is confidential under section 261.201(a) of the Family Code. You have not indicated the sheriff has adopted a rule that governs the release of this type of information; therefore, we assume no such regulation exists.

In this instance, however, the requestor is a prosecutor with the United States Navy Judge Advocate General's Corps ("JAG") and asserts the requested information can be provided to the requestor through an intergovernmental transfer. This office has concluded information subject to the Act may be transferred between governmental bodies without waiving exceptions to the public disclosure of that information or affecting its confidentiality. *See* Attorney General Opinion JM-590 (1986); Open Records Decision Nos. 655 (1997), 567 (1990), 561 (1990), 516 (1989). These decisions are based on the well-settled policy of this state that governmental agencies should cooperate with each other in the interest of the efficient and economical administration of their statutory duties. *See* ORD 516. In adherence to this policy, this office has concluded information may be transferred between governmental bodies that are subject to the Act without waiving exceptions to the public disclosure of that information or affecting its confidentiality on the basis of a recognized need to maintain an unrestricted flow of information between governmental bodies. *See* Attorney General Opinions H-836 (1976), H-242 (1974), M-713 (1970); Open Records Decision Nos. 655, 414 (1984). However, the transfer of confidential information from one governmental body to another is prohibited where the relevant confidentiality statute authorizes release of the confidential information only to specific entities, and the requesting governmental body is not among the statute's enumerated entities. *See* Attorney General Opinions DM-353 at 4 n.6 (1995) (intergovernmental transfer permitted under statutory confidentiality provision only where disclosure to another governmental agency is required or authorized by law), JM-590 at 4-5 (1986) (where governmental body is not included among expressly enumerated entities to which confidential information may be disclosed, information may not be transferred to that governmental body).

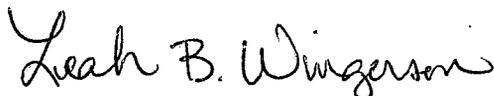
As a federal agency, the Navy is subject to the release of information laws found in the federal Freedom of Information Act, chapter 552 of the United States Code, rather than the state laws found in the Public Information Act. *See* Open Records Decision Nos. 655, 650 (1996) (transfer of confidential information to federal agency impermissible unless federal law requires its disclosure). Furthermore, section 261.201 of the Family Code is a confidentiality statute with its own release provisions. Therefore, we conclude the submitted

information may not be provided to the requestor through an intergovernmental transfer; it may be released only in accordance with the provisions of section 261.201 of the Family Code. Section 261.201(a) states, in part, information made confidential under this statute “may be disclosed only for purposes consistent with [the Family Code] and applicable federal or state law[.]” Fam. Code § 261.201(a). The requestor has not informed us, nor are we aware, of any applicable federal or state law that would authorize the release of the submitted information to this requestor. Furthermore, the requestor has not explained how release of the submitted information to this requestor, as a JAG representative, would be for purposes consistent with the Family Code. Consequently, the district attorney must withhold the submitted audio and video recordings under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.¹

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,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

Ref: ID# 422424

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹As our ruling is dispositive, we need not address your remaining argument against disclosure.