



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 9, 2014

Mr. Brent Webster
Williamson County District Attorney's Office
405 M.L.K. Street, Box #1
Georgetown, Texas 78626

OR2014-22216

Dear Mr. Webster:

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# 546443.

The Williamson County District Attorney's Office (the "district attorney's office") received a request for a specified case file. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.111, 552.130, 552.132, and 552.135 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹ We have also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit written comments regarding why information should or should not be released).

Initially, we note some of the requested information may have been the subject of a previous ruling from this office. In Open Records Letter No. 2014-02965 (2014), this office ruled the district attorney's office and the Williamson County Sheriff's Office must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. We have no indication the law, facts, or circumstances upon which the prior ruling was based have changed. Accordingly, to the extent the requested information is identical to the information previously requested and ruled upon, the district attorney's office must continue to rely on Open Records Letter No. 2014-02965

¹We assume that 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 that those records contain substantially different types of information than that submitted to this office.

as a previous determination, and withhold the previously ruled upon information in accordance with it. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). However, to the extent the information in the current request is not encompassed by the prior ruling, we will consider the exceptions you raise.

We understand the requestor to assert he has a right of access to the requested information under article 39.14 of the Texas Code of Criminal Procedure. Article 39.14 governs the discovery of information and the testimony of witnesses in criminal proceedings. *See* Crim. Proc. Code art. 39.14. However, we note the Act differs in purpose from statutes and procedural rules providing for discovery in judicial proceedings. *See* Gov't Code §§ 552.005 (the Act does not affect scope of civil discovery), .0055 (subpoena duces tecum or request for discovery issued in compliance with statute or rule of civil or criminal procedure is not considered to be request for information under the Act). The discovery process is a process through which parties to litigation can obtain information pertaining to the litigation. A public information request under the Act is a process in which any individual may request information from a governmental body. Thus, the discovery process has no bearing on the availability of information requested under the Act.

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). You state the information at issue was used in an investigation of alleged child abuse under chapter 261 of the Family Code. *See id.* §§ 261.001 (defining "abuse" for purposes of chapter 261 of the Family Code), 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). You have not indicated the district attorney's office has adopted a rule governing the release of this type of information. Therefore, we assume no such regulation exists. The requestor claims a right of access to this information under section 700.203(a)(2) of title 40 of the Texas Administrative Code. We note, however, section 700.203 applies to information maintained by the Texas Department of Family and Protective Services, and not to information maintained by the district attorney's office. *See* 40 T.A.C. § 700.203. Accordingly, we determine the information at issue is confidential pursuant to section 261.201 of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute). Therefore, the district attorney's office must withhold the information at issue under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.²

In summary, to the extent the requested information is identical to the information previously requested and ruled upon, the district attorney's office must continue to rely on Open Records Letter No. 2014-02965 as a previous determination, and withhold the previously ruled upon information in accordance with it. The district attorney's office must withhold the information at issue under section 552.101 of the Government Code in conjunction with section 261.201 of the Family 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, 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,



Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/dls

²As our ruling is dispositive, we need not address your remaining arguments against disclosure.

Ref: ID# 546443

Enc. Submitted documents

c: Requestor
(w/o enclosures)