



February 10, 2015

Mr. Edward Adrian Sandoval  
Assistant District Attorney  
County of Cameron  
964 East Harrison Street  
Brownsville, Texas 78520

OR2015-02629

Dear Mr. Sandoval:

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# 556160.

The Cameron County District Attorney's Office (the "district attorney's office") received a request for two specified indictments, as well as the causes of death for two named individuals, as listed on their autopsy reports. You state you have released one of the requested indictments to the requestor. You further state the district attorney's office does not possess the other requested indictment.<sup>1</sup> 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.

Initially, we note the portion of the request at issue is for only the causes of death for the two named individuals, as listed on their autopsy reports. Thus, except for the causes of death, the submitted information is not responsive to the instant request because it does not consist of the information requested. This ruling does not address the public availability of any

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<sup>1</sup>The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

information that is not responsive to the request and the district attorney's office is not required to release such information in response to this request.

Next, we note some of the responsive information was the subject of a previous request for a ruling, as a result of which this office issued Open Records Letter No. 2014-21748 (2014). In that ruling, we determined the district attorney'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 on which the prior ruling was based have changed. Thus, the district attorney's office must continue to rely on Open Records Letter No. 2014-21748 as a previous determination, and withhold the responsive information that is identical to the information that was at issue in Open Records Letter No. 2014-21748 in accordance with that ruling. *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). To the extent the responsive information is not encompassed by the previous ruling, we will consider your argument against disclosure.

Section 552.101 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) [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 remaining responsive information is contained in files, reports, records, communications, or working papers used or developed in an investigation of alleged or suspected child abuse or neglect. *See id.* § 261.001(1), (4) (defining "abuse" and "neglect" for purposes of chapter 261 of the Family Code); *see also id.* § 101.003(a) (defining "child" for purposes of chapter 261 of the Family Code). Accordingly, the information is within the scope of section 261.201 of the Family Code. You state the district attorney's office has not

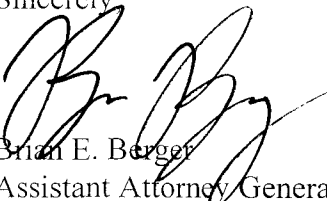
adopted a rule governing the release of this type of information. Therefore, the information at issue is confidential pursuant to section 261.201(a) of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute). Accordingly, the district attorney's office must withhold this information under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.

In summary, the district attorney's must withhold the responsive information that is identical to the information that was at issue in Open Records Letter No. 2014-21748 in accordance with that ruling. The district attorney's office must withhold the remaining responsive information 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](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,



Brian E. Berger  
Assistant Attorney General  
Open Records Division

BB/akg

Ref: ID# 556160

Enc. Submitted documents

c: Requestor  
(w/o enclosures)