



Office of the Attorney General  
State of Texas

September 12, 1997

DAN MORALES  
ATTORNEY GENERAL

Mr. W. J. Ham  
Staff Attorney  
Texas Youth Commission  
P.O. Box 4260  
Austin, Texas 78765

OR97-2039

Dear Mr. Ham:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 108832.

The Texas Youth Commission (the "commission") received a request for "the entire investigation file" concerning the death of a 17-year-old who was fatally injured at a commission contract facility. The request letter indicates that the requestor is the attorney for the parents of the deceased youth and is acting on behalf of the parents. The commission provided to the parents a summary investigation report, de-identified as to one of the facility's staff members. You assert that the investigation file is protected from disclosure pursuant to section 261.201 of the Family Code, in conjunction with Government Code section 552.101.

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 261.201(a) of the Family Code provides:

(a) The 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 [of a child] 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, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

The records at issue were submitted to this office for review.<sup>1</sup> We agree that the commission's investigation file is generally protected from disclosure pursuant to section 261.201, in conjunction with section 552.101 of the Government Code. The deceased individual was a child for purposes of chapter 261, *see* Fam. Code § 101.003 (child is generally defined as "a 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 purpose"), and the records at issue appear to be documents used or developed in a chapter 261 investigation. *See id.* §§ 261.001(3), 261.301 (agency designated by court as responsible for protection of child must make investigation into report of child abuse or neglect). Thus, pursuant to the provisions of section 216.201(a), as an investigating agency, the commission must withhold the requested records from disclosure, except as provided by the commission's own rules concerning release of the records.

You submitted to this office a copy of the commission's rules, which provide that the commission must provide to the child's parents a "Death Summary Report" that includes (1) youth identifying information, (2) circumstances of death, (3) committing and classifying offense, (4) recent history of placements, (5) social history summary, (6) death certificate, (7) law enforcement report, and (8) autopsy report.<sup>2</sup> The commission must provide this information to the requestor, who apparently is the parents' representative, in accordance with its own rules.<sup>3</sup> Information other than that required to be released by commission rule is confidential pursuant to section 261.201(a).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

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<sup>1</sup>We assume that the news article about the youth's death was provided to this office for background informational purposes only.

<sup>2</sup>We also note that section 11 of article 49.25 of the Texas Code of Criminal Procedure provides that an autopsy report, including the full report and detailed findings of an autopsy, is a public record. *See* Open Records Decision No. 529 (1989) at 4. Thus, the autopsy report and attachments are public by statute.

<sup>3</sup>You state that there is some question as to whether the requestor is actually the legal representative of the deceased child, or rather, of the estate of the deceased child. We note that the commission's rules mandate release to the parents of a deceased child. It is our understanding that the requestor is the representative of the parents and in that capacity is seeking release of the records.

RHS/ch

Ref.: ID# 108832

Enclosures: Submitted documents

cc: Ms. Paula S. Robnett  
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(w/o enclosures)

