



May 20, 1999

Ms. Joni M. Vollman
Assistant General Counsel
Office of the District Attorney
Harris County
201 Fannin, Suite 200
Houston, Texas 77002-1901

OR99-1395

Dear Ms. Vollman:

You have asked 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# 124298.

The Harris County District Attorney’s Office (the “district attorney”) received a request from an attorney for “witness statement and any other file materials that may be contained in the file for Cause Number 756,136.” The requestor represents that her request is pursuant to “an executed authorization allowing the production” of the requested information. In response to the request, you submit to this office for review a representative sample of the information at issue.¹ You state that the pending request is “the second request for documents contained in this prosecution file involving a criminal sexual assault of a child investigation.” You contend that the submitted records are excepted from required public disclosure by section 552.101 of the Government Code, in conjunction with section 261.201 of the Family Code.

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.

We have considered the exception and arguments you raise, and have reviewed the information submitted.

As you have noted, the pending request is related to an earlier open records request for information by the same requestor. *See* Open Records Letter No. 99-0580 (1999). In Open Records Letter No. 99-0580, the requestor asked for “a copy of the complete file for Cause No. 756,136.” Therefore, we agree that the records at issue appear to be the same in both requests.

In Open Records Letter No. 99-0580, this office concluded that the requested information was excepted from disclosure under section 552.101 in conjunction with section 261.201 of the Family Code; therefore, we did not need to rule on your other claimed exceptions. In the prior ruling, our determination was based on the fact that the requested information consisted of reports, records, and working papers used or developed in an investigation made under chapter 261 of the Family Code. Given that assumption, the requested information is confidential pursuant to section 261.201 of the Family Code. You explain that the information responsive to the *present* request is identical to the earlier ruling, because it involves a request for the same file as the one at issue in the *prior* ruling. Because this office has issued a prior ruling regarding these records, it is unnecessary for us to issue a second ruling at this time. *See* Gov’t Code § 552.301. Accordingly, you may rely on the conclusions reached in Open Records Letter No. 99-0580 in response to this request, and withhold the requested records. A copy of the related ruling is enclosed for your convenience.

In conclusion, we note that to the extent the requestor has “an executed authorization allowing the production” of the requested information, such an authorization may be directed to the Department of Protective and Regulatory Services (the “department”).² *If* the investigation file has been referred to the department, then the requestor *may* have a right of access to a portion of the information at issue “subject to [the department’s] own rules.” As a courtesy, the district attorney can advise the requestor whether the investigation file has been referred to the department.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts

²We note that *if* the investigation has been referred to the department, a parent who is a requestor may be entitled to access to the department’s records. Section 261.201(f) of the Family Code provides that the department, upon request and subject to its own rules:

shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect information concerning the reported abuse or neglect that would otherwise be confidential under this section if the department has edited the information to protect the confidentiality of the identity of the person who made the report and any other person whose life or safety may be endangered by the disclosure.

presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink that reads "Sam Haddad". The signature is written in a cursive style with a large, looping initial "S".

Sam Haddad
Assistant Attorney General
Open Records Division

SH/nc

Ref.: ID# 124298

Encl.: Submitted documents
Open Records Letter No. 99-0580 (1999)

cc: Ms. Tamera L. Venzke
The Venzke Law Firm
2000 Smith Street
Houston, Texas 77002
(w/ Open Records Letter No. 99-0580 (1999))