



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 30, 2006

Ms. Nydia D. Thomas
Senior Staff Attorney and Public Information Officer
Texas Juvenile Probation Commission
P. O. Box 13547
Austin, Texas 78711

OR2006-10025

Dear Ms. Thomas:

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# 258152.

The Texas Juvenile Probation Commission (the "commission") received a request for a report pertaining to a specified incident. You claim that the requested 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. Section 552.101 encompasses section 261.201(a) of the Family Code. Section 261.201(a) 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 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 explain that the commission is mandated to investigate allegations of abuse and neglect under section 261.405 of the Family Code. *See id.* § 261.405(c) (commission shall conduct investigation of alleged abuse, neglect, or exploitation in any juvenile justice program or facility). Further, you state that the requested information concerns the commission's investigation into an allegation of neglect at the Garza County Regional Juvenile Center. *See id.* § 261.401(3) (defining "neglect" for purposes of subchapter E of chapter 261 of the Family Code). Upon review of your arguments and the submitted information, we conclude that the submitted information consists of files, reports, records, and working papers used or developed in an investigation made under chapter 261 of the Family Code.

We note, however, that the commission has adopted rules concerning the release of information relating to investigations of alleged abuse, neglect, or exploitation conducted under section 261.405. *See id.* § 261.201(a). Section 349.59 of title 37 of the Texas Administrative Code provides in part that

[u]pon written request, the [c]ommission *shall provide* access to case records to the parent or other legal guardian of the alleged/designated victim provided that the records are redacted in accordance with [section] 349.60.

37 T.A.C. § 349.59(b) (emphasis added). In this instance, the requestor states that he is an attorney representing the youth's mother. Therefore, under section 349.59(b), the commission must provide the requestor with a copy of the submitted information after redacting the information to protect the identity of the person making the report.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the

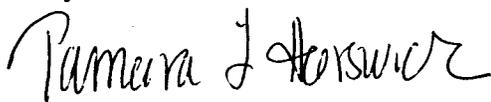
statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Tamara L. Harswick
Assistant Attorney General
Open Records Division

TLH/krl

Ref: ID# 258152

Enc. Submitted documents

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(w/o enclosures)