



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 9, 2010

Mr. Ed C. Jones
County Attorney
Office of the County Attorney
Angelina County
P.O. Box 1845
Lufkin, Texas 75902

OR2010-12011

Dear Mr. Jones:

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# 389677.

The Angelina County Attorney's Office (the "county attorney"), the Angelina County Clerk's Office (the "clerk"), and the Angelina County Justice of the Peace, Precinct 1, (the "JP") received a request for information related to case number 03-1431. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

Initially, we note the Act is applicable to information "collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business by a governmental body." Gov't Code § 552.002(a)(1). However, the Act's definition of "governmental body" "does not include the judiciary." *Id.* § 552.003(1)(B). Information "collected, assembled, or maintained by or for the judiciary" is not subject to the Act but is instead "governed by rules adopted by the Supreme Court of Texas or by other applicable laws and rules." *Id.* § 552.0035(a); *cf.* Open Records Decision No. 131 (1976) (applying statutory predecessor to judiciary exclusion under Gov't Code § 552.003(1)(B) prior to

¹While you do not explicitly raise section 552.101 of the Government Code in your brief, based on your arguments we understand you to assert section 552.101.

enactment of Gov't Code § 552.0035). Exhibit B consists of Angelina County Court records you state are maintained by the clerk. Upon review, we find the records in Exhibit B are maintained by the clerk as an agent for the Angelina County Court, which is part of the judiciary. You state the documents submitted in Exhibit C are from a file maintained by the JP, which is also part of the judiciary. Thus, based on your representations and our review of the information in question, we find that Exhibits B and C are maintained for the judiciary. We therefore conclude that Exhibits B and C are not subject to the Act and need not be released in response to this request for information.²

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 of the Family Code, which provides as follows:

(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 represent the county attorney's file submitted in Exhibit A was used or developed in an investigation of suspected child abuse. *See id.* § 261.001(1) (defining "abuse" for purposes of section 261.201); *see also id.* § 101.003(a) (defining "child" for purposes of section 261.201 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"). Therefore, we find the information in Exhibit A is confidential under

²We note that records of the judiciary also may be public under other sources of law. *See* Gov't Code § 29.007(d)(4) (complaints filed with municipal court clerk); *id.* § 29.007(f) (municipal court clerks shall perform duties prescribed by law for county court clerk); Local Gov't Code § 191.006 (records belonging to office of county clerk shall be open to public unless access restricted by law or court order); *see also Star-Telegram, Inc. v. Walker*, 834 S.W.2d 54, 57 (Tex. 1992) (documents filed with courts are generally considered public and must be released); Attorney General Opinions DM-166 (1992) at 2-3 (public has general right to inspect and copy judicial records), H-826 (1976); Open Records Decision No. 25 (1974).

section 261.201(a) of the Family Code. You have not indicated that the investigating agencies have adopted a rule that governs the release of this type of information in this instance. Therefore, we assume that no such regulation exists. Given that assumption, the county attorney must withhold Exhibit A in its entirety 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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Bob Davis
Assistant Attorney General
Open Records Division

RSD/eeg

Ref: ID# 389677

Enc. Submitted documents

cc: Requestor
(w/o enclosures)