



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 15, 2014

Mr. Donald A. Stricklin
Assistant District Attorney
Brazoria County District Attorney's Office
111 East Locust, Suite 408A
Angleton, Texas 77515

OR2014-06228

Dear Mr. Stricklin:

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# 519580.

The Brazoria County District Attorney's Office (the "district attorney's office") received a request for the public portions of a specified case file. You claim Exhibit C is not subject to the Act and Exhibit B is excepted from disclosure under section 552.101 of the Government Code. We have considered your arguments and reviewed the submitted information.

Initially, you contend Exhibit C is not subject to the Act because many of the records are file stamped and, thus, are judicial records. The Act only applies to information "written, produced, 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). The Act does not apply to records of the judiciary. *See id.* § 552.003(1)(B) (definition of governmental body under the Act specifically excludes the judiciary). Information "collected, assembled or maintained by or for the judiciary" is not subject to the Act. *See id.* § 552.0035(a); *see also* Tex. Sup. Ct. R. 12. Consequently, records of the judiciary need not be released under the Act. *See* Attorney General Opinion DM-166 (1992). *But see Benavides v. Lee*, 665 S.W.2d 151 (Tex. App.—San Antonio 1983, no writ); Open Records Decision No. 646 at 4 (1996) ("function that a governmental entity performs determines whether the entity falls within the judiciary exception to the . . . Act."). The

requestor specifically seeks the district attorney's office's prosecution file. We note the district attorney's office's prosecution file is created and maintained by the district attorney's office as part of the district attorney's office's investigation. Thus, we find Exhibit C does not constitute records of the judiciary and is subject to the Act. However, we will address your remaining argument against disclosure for that information.

Section 552.101 of the Government Code exempts 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, including section 261.201 of the Family Code. Section 261.201(a) provides, in relevant part:

[T]he following information is confidential, is not subject to public release under [the Act] and may be disclosed only for purposes consistent with [the Family 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.

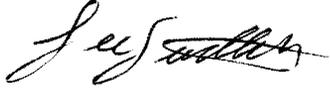
Fam. Code § 261.201(a). You state the submitted information was used or developed in an investigation of child abuse. Based on your representations and our review, we conclude the submitted information is subject to section 261.201 of the Family Code. *See id.* §§ 261.001(1) (defining "abuse" for purposes of chapter 261 of the Family Code), 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). As you do not indicate the district attorney's office has adopted a rule that governs the release of this type of information, we assume no such rule exists. Given that assumption, we find the district attorney's office must withhold the submitted information in its entirety under section 552.101 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](#), 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,



Lee Seidlits
Assistant Attorney General
Open Records Division

CLS/tch

Ref: ID# 519580

Enc. Submitted documents

c: Requestor
(w/o enclosures)