



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 23, 2014

Mr. Marc Allen Connelly
Deputy General Counsel
Texas Department of State Health Services
P.O. Box 149347
Austin, Texas 78714-9347

OR2014-08935

Dear Mr. Connelly:

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# 523801 (DSHS OR File No. 22679/2014).

The Texas Department of State Health Services (the "department") received a request for all reported complaints of abuse, neglect, or exploitation at a specified facility during a specified period of time.¹ You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.²

¹You state the department sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

²We assume 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 those records contain substantially different types of information than that submitted to this office.

Section 552.101 of the Government Code exempts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes. Section 261.201 of the Family Code provides, in part, as follows:

(a) [T]he 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 state the submitted information relates to investigations of alleged or suspected child abuse or neglect by the department in a facility licensed by the department. *See id.* § 261.103. You claim the submitted information is confidential under section 261.201 of the Family Code and rules adopted by the department under section 261.201(a). Based on your representations and our review, we conclude the submitted information was used or developed by the department in conducting investigations under chapter 261. *See id.* §§ 261.103(a)(3) (requiring that report of suspected abuse or neglect be made to state agency that operates, licenses, certifies, or registers facility in which alleged abuse or neglect occurred), .401(b) (state agency that operates, licenses, certifies, registers, or lists a facility in which children are located or provides oversight of a program that serves children shall make prompt, thorough investigation of report that child has been or may be abused, neglected, or exploited in facility or program), .105(c), .301(b). Therefore, this information is confidential under section 261.201 of the Family Code and may be disclosed only for purposes consistent with the Family Code and applicable federal or state law or under rules adopted by the department.

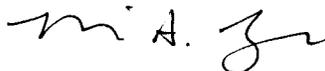
You indicate the department has adopted section 1.207 of title 25 of the Texas Administrative Code to govern the release of this type of information. You state section 1.207 references specific statutory exceptions that do not apply to the information at issue. Based on your representation that the department's rule regarding release of this information does not apply in this instance, we conclude the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with

section 261.201 of the Family Code.³ See Open Records Decision No. 440 at 2 (1986) (predecessor statute).

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,



Nicholas A. Ybarra
Assistant Attorney General
Open Records Division

NAY/bhf

Ref: ID# 523801

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³As our ruling is dispositive, we need not address your remaining arguments against disclosure of the submitted information.