



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 17, 2015

Ms. Yahitza Nuñez
Assistant District Attorney
County of Hays
Hays County Criminal District Attorney's Office
Hays County Government Center
712 Stagecoach Trail, Suite 2057
San Marcos, Texas 78666

OR2015-05031

Dear Ms. Nuñez:

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# 562211 (Ref No. 15-0044).

The Hays County District Attorney's Office (the "district attorney's office") received a request for information pertaining to two specified cases. 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 information.

Section 552.101 of the Government Code excepts 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

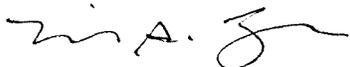
(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). You argue the submitted information is subject to chapter 261 of the Family Code because the incident at issue was reported to the Child Protective Services Division of the Department of Family and Protective Services (“CPS”). We note the submitted information pertains to investigations of an assault and a verbal disturbance involving two adults. Upon review, we find you have failed to demonstrate how any portion of the submitted information was used or developed in an investigation of alleged or suspected child abuse or neglect under section 261.201(a)(2). Furthermore, you have not established the information is a report of alleged or suspected abuse or neglect made under section 261.201(a)(1). *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of Fam. Code ch. 261). Therefore, the district attorney’s office may not withhold the submitted information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. As you raise no further exceptions to disclosure, the district attorney’s office must release the submitted information.

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/cbz

Ref: ID# 562211

Enc. Submitted documents

c: Requestor
(w/o enclosures)