



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 2, 2015

Mr. Vance Hinds
Assistant County and District Attorney
County of Ellis
Ellis County Courts Building
109 South Jackson Street
Waxahachie, Texas 75165

OR2015-20706

Dear Mr. Hinds:

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# 583999.

The Ellis County and District Attorney's Office (the "district attorney's office") received a request for information pertaining to the requestor's son. The district attorney's office indicates it is withholding social security numbers pursuant to section 552.147 of the Government Code. *See Gov't Code* § 552.147(b) (governmental body may redact living person's social security number from public release without necessity of requesting decision from this office under the Act). The district attorney's office claims the submitted information is excepted from disclosure under sections 552.101, 552.111, 552.130, 552.136, and 552.137 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

Initially, we note the submitted information is subject to section 552.022(a)(1) of the Government Code, which reads as follows:

Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

(1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108[.]

Gov't Code § 552.022(a)(1). Although the district attorney's office asserts this information is excepted from release under section 552.111 of the Government Code, this section is discretionary and does not make information confidential under the Act. *See* Open Records Decision No. 677 (2002) (governmental body may waive attorney work product privilege under section 552.111); *see also* Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally). Therefore, the district attorney's office may not withhold the submitted information under section 552.111. However, the Texas Supreme Court has held the Texas Rules of Civil Procedure are "other law" that make information expressly confidential for the purposes of section 552.022. *In re City of Georgetown*, 53 S.W.3d 328, 336 (Tex. 2001). Thus, we will consider the arguments of the district attorney's office under Texas Rule of Civil Procedure 192.5. In addition, sections 552.101, 552.130, 552.136, and 552.137 of the Government Code make information confidential under the Act. Accordingly, we will also consider the applicability of these sections to 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. This section encompasses section 261.201(a) of the Family Code, which provides as follows:

[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.

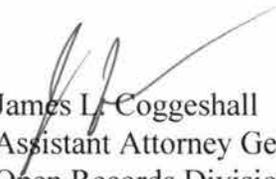
Fam. Code § 261.201(a). The district attorney's office asserts the requested information was used or developed in an investigation under chapter 261. *See id.* §§ 101.003(a) (defining "child" for purposes of section 261.201), 261.001(1) (defining "abuse" for purposes of section 261.201). Upon review, we find the information is within the scope of section 261.201 of the Family Code. The district attorney's office does not indicate it has adopted a rule that governs the release of this type of information. Therefore, we assume no

such rule exists. Given that assumption, the district attorney's office must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.¹ 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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/cbz

Ref: ID# 583999

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹As our ruling is dispositive, we do not address the district attorney's office's other arguments to withhold this information.