



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 4, 2016

Mr. Tillman S. Roots
Assistant District Attorney
County of Comal
150 North Seguin Avenue, Suite 307
New Braunfels, Texas 78130-5161

OR2016-10103

Dear Mr. Roots:

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# 608575 (File No. 16OR-020).

The Comal County District Attorney's Office (the "district attorney's office") received a request for a specified case number. The district attorney's office claims the submitted information is excepted from disclosure under sections 552.101, 552.103, and 552.108 of the Government Code.¹ We have considered the exceptions the district attorney's office claims and reviewed the submitted representative sample of information.²

¹Although the district attorney's office also raises all other exceptions to disclosure within sections 552.101 through 552.148 of the Government Code, the district attorney's office has provided no arguments explaining how these exceptions are applicable to the submitted information. Therefore, we assume the district attorney's office no longer asserts these exceptions. *See* Gov't Code §§ 552.301(e)(1)(A), .302.

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 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 information protected by other statutes, such as section 261.201 of the Family Code, which 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). The district attorney’s office states the submitted information was used or developed in an investigation of alleged or suspected child abuse. *See id.* § 261.001 (1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code), 101.003(a) (defining “child” for purposes of chapter 261 of the Family Code). Accordingly, we find this information is subject to chapter 261 of the Family Code. We have no indication the district attorney’s office has adopted a rule that governs the release of this type of information. Therefore, we assume no such regulation exists. Given that assumption, we conclude the submitted information is confidential pursuant to section 261.201 of the Family Code, and the district attorney’s office must withhold it under section 552.101 of the Government 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

³As our ruling is dispositive, we need not address the district attorney’s office’s remaining arguments against disclosure.

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to be 'RH', is located below the word 'Sincerely,'.

Rahat Huq
Assistant Attorney General
Open Records Division

RSH/som

Ref: ID# 608575

Enc. Submitted documents

c: Requestor
(w/o enclosures)