



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 5, 2017

Mr. Joshua Smalley  
Staff Attorney  
Office of the Independent Ombudsman  
Texas Juvenile Justice Department  
11209 Metric Boulevard, Building H  
Austin, Texas 78758

OR2017-00350

Dear Mr. Smalley:

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# 640328 (OIO-ORR-17-001).

The Office of the Independent Ombudsman for the Texas Juvenile Justice Department (the "OIO") received a request for all founded case reports and all site visit reports of a certain type from specified facilities.<sup>1</sup> 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, portions of which constitute representative samples.<sup>2</sup>

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<sup>1</sup>We note the OIO 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 when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

<sup>2</sup>We assume the "representative samples" of records submitted to this office are 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. Section 552.101 encompasses section 261.056 of the Human Resources Code, which provides:

(a) The [Texas Juvenile Justice Department (the “department”)] shall allow any child committed to the department to communicate with the independent ombudsman or an assistant to the ombudsman. The communication:

(1) may be in person, by mail, or by any other means; and

(2) is confidential and privileged.

(b) The records of the independent ombudsman are confidential, except that the independent ombudsman shall:

(1) share with the office of inspector general of the department a communication with a child that may involve the abuse or neglect of the child; and

(2) disclose its nonprivileged records if required by a court order on a showing of good cause.

(c) The independent ombudsman may make reports relating to an investigation public after the investigation is complete but only if the names of all children, parents, and employees are redacted from the report and remain confidential.

(d) The name, address, or other personally identifiable information of a person who files a complaint with the [OIO], information generated by the [OIO] in the course of an investigation, and confidential records obtained by the [OIO] are confidential and not subject to disclosure under [the Act], except that the information and records, other than confidential information and records concerning a pending law enforcement investigation or criminal action, may be disclosed to the appropriate person if the [OIO] determines that disclosure is:

(1) in the general public interest;

(2) necessary to enable the [OIO] to perform the responsibilities provided under this section; or

(3) necessary to identify, prevent, or treat the abuse or neglect of a child.

Hum. Res. Code § 261.056. You state the submitted information is confidential under section 261.056(d) because it consists of information generated and obtained by the OIO in the course of investigations. We have no indication the release provisions of section 261.056(d) apply to the information at issue. *Id.* § 261.056(d)(1)-(3). Thus, we agree the submitted information is confidential under section 261.056(d) of the Human Resources Code and must be withheld under section 552.101 of the Government 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](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,



Kenny Moreland  
Assistant Attorney General  
Open Records Division

KJM/akg

Ref: ID# 640328

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Third Party  
(w/o enclosures)