



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 11, 2017

Mr. Jonathan Miles
Open Records Attorney
Texas Health and Human Services Commission
P.O. Box 13247
Austin, Texas 78711

OR2017-00739

Dear Mr. Miles:

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# 641360 (HHSC# 11813).

The Texas Health and Human Services Commission (the "commission") received a request for information related to case number 12347-14. You state the commission is withholding information subject to section 552.117 of the Government Code as permitted by section 552.024(c) of the Government Code.¹ You also state the commission is withholding access device numbers pursuant to section 552.136(c) of the Government Code, and social security numbers pursuant to section 552.147(b) of the Government Code.² You state the commission has released some of the requested information. You claim the submitted

¹Section 552.117 of the Government Code excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of current or former officials or employees of a governmental body. *See* Gov't Code § 552.117(a)(1). Section 552.024 of the Government Code authorizes a governmental body to withhold information subject to section 552.117 without requesting a decision from this office if the current or former employee or official chooses not to allow public access to the information. *See id.* § 552.024(c).

²Section 552.136(c) of the Government Code allows a governmental body to redact the information described in section 552.136(b) without the necessity of seeking a decision from the attorney general. *See id.* § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(d), (e). Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. *See id.* § 552.147(b).

information is excepted from disclosure under section 552.101 of the Government Code. Additionally, you state you have notified the Texas Department of Family and Protective Services (the "DFPS") of its right to submit comments to this office why the submitted information should not be released. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have received comments from the DFPS. We have considered the submitted arguments and reviewed the submitted representative sample of information.³

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."⁴ Gov't Code § 552.101. This section encompasses information protected by 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). You inform us the submitted information consists of Child Protective Services reports, records, and working papers that we understand were used or developed in an investigation of alleged or suspected child abuse or neglect conducted by the DFPS, which is an agency authorized to conduct investigations of alleged or suspected child abuse or neglect under chapter 261 of the Family Code. *See id.* §§ 101.003(a) (defining "child" for purposes of this section as person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes), 261.001(1), (4) (defining "abuse" and "neglect" for purposes of chapter 261 of the Family Code). Based on your representation, we find this information is subject to chapter 261 of the Family Code. We note in accordance with section 40.005 of the Human

³We 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.

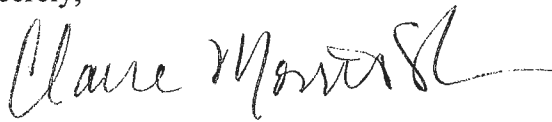
⁴The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Resource Code, DFPS promulgated section 700.203 of title 40 of the Texas Administrative Code, which permits DFPS to disclose information made confidential under section 261.201(a) under certain circumstances. *See* Hum. Res. Code § 40.005; 40 T.A.C. § 700.203. Neither you nor DFPS informs us the requestor has a right of access under this rule to the information at issue. Therefore, we conclude the commission must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.⁵ *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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 641360

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)

⁵As our ruling is dispositive, we need not address the remaining arguments against disclosure of the submitted information.