



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 11, 2017

Ms. Karol Davidson
Staff Attorney
Office of the General Counsel
Texas Juvenile Justice Department
P.O. Box 12757
Austin, Texas 78711

OR2017-15406

Dear Ms. Davidson:

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# 665558 (ORR# 30126).

The Texas Juvenile Justice Department (the "department") received a request for 1) a specified safety plan, 2) a specified dormitory shift log for a specific time period, and 3) information pertaining to case number 17-AID10308.¹ The department states it has released some information. The department claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the

¹The department states it sought and received clarification of the request. *See* Gov't Code § 552.222(b) (providing that if request for information is unclear, governmental body may ask requestor to clarify the request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed). Further, we note, and the department acknowledges, the department did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(e). Nonetheless, because section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

exception the department claims and reviewed the submitted representative sample of information.²

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 261.201 of the Family Code, which provides, in relevant part, as follows:

(a) Except as provided by Section 261.203, the 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). We note the department is authorized to conduct an investigation under chapter 261 of the Family Code. *See id.* § 261.401(b) (state agency that provides oversight of program that serves children shall make prompt, thorough investigation of report that child has been or may be abused, neglected, or exploited in program). The department states the department’s Administrative Investigations Division (“AID”) is responsible for conducting these chapter 261 investigations.

Upon review, we find Attachment B was used or developed in an investigation of alleged or suspected child abuse or neglect under section 261.201(a)(2). *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of Family Code chapter 261); *see also 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 disabilities of minority removed for general purposes). Therefore, Attachment B falls within the scope of section 261.201(a) of the Family Code. We note the department has adopted rules concerning investigations of alleged abuse, neglect, or exploitation. *See id.* § 261.409 (department by rule shall adopt standards for investigation under section 261.401 of Family Code); 37 T.A.C. § 380.9333. The department states the requestor does not have a right of access to the information subject

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.

to section 261.201(a)(2) of the Family Code under the department's rules in this instance. Accordingly, we conclude the department must withhold Attachment B under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.

Section 552.101 of the Government Code also encompasses section 244.003 of the Human Resources Code. Section 244.003 provides as follows:

(a) The department shall keep written records of all examinations and conclusions based on them and of all orders concerning the disposition or treatment of each child subject to its control.

(b) Except as provided by Section 243.051(c), these records and all other information concerning a child, including personally identifiable information, are not public and are available only according to the provisions of Section 58.005, Family Code, Section 244.051, and Chapter 61, Code of Criminal Procedure.

Hum. Res. Code § 244.003. The department states the remaining information contains personally identifiable information relating to youth in the custody of the department and, thus, is within the scope of section 244.003. The department states the requestor does not have a right of access to the information at issue under section 58.005 of the Family Code or section 244.051 of the Human Resources Code. Further, the remaining information does not indicate the requestor has a right of access to the information under Chapter 61 of the Code of Criminal Procedure or section 243.051(c) of the Human Resources Code. Based on the department's representations and our review, we find section 244.003 is applicable. Therefore, we conclude the department must withhold the remaining information under section 552.101 of the Government Code in conjunction with section 244.003 of the Human Resources Code.³

In summary, the department must withhold Attachment B under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. The department must withhold the remaining information under section 552.101 of the Government Code in conjunction with section 244.003 of the Human Resources 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.

³As our ruling is dispositive, we need not address the department's remaining argument against disclosure of this information.

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,



Rahat Huq
Assistant Attorney General
Open Records Division

RSH/tdw

Ref: ID# 665558

Enc. Submitted documents

c: Requestor
(w/o enclosures)