



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

November 7, 2017

Ms. Gina Licata Adams  
General Counsel  
Bexar County Juvenile Probation Department  
301 East Mitchell Street  
San Antonio, Texas 78210-3845

OR2017-25455

Dear Ms Adams:

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# 683386.

The Bexar County Juvenile Probation Department (the "department") received a request for all information pertaining to the requestor's son. You claim the submitted information is not subject to the Act. Alternatively, you claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the submitted arguments and reviewed the submitted information.

The Act is applicable to information that is "written, produced, collected, assembled, or maintained . . . in connection with the transaction of official business . . . by a governmental body[.]" Gov't Code § 552.002(a)(1). However, the Act's definition of "governmental body" "does not include the judiciary." *Id.* § 552.003(1)(B). In Open Records Decision No. 646 (1996), this office determined a community supervision and corrections department is a governmental body for purposes of the Act, and its administrative records, such as personnel files and other records reflecting the day-to-day management of the department, are subject to the Act. ORD 646 at 5; *see also Benavides v. Lee*, 665 S.W.2d 151 (Tex. App.—San Antonio 1983, no writ) (in determining whether governmental entity falls within judiciary exception, this office looks to whether governmental entity maintains relevant records as agent of judiciary with regard to judicial, as opposed to administrative, functions). In contrast, specific records held by a community supervision and corrections

department concerning individuals who are on probation and subject to the direct supervision of a court are not subject to the Act, as such records are held on behalf of the judiciary. ORD 646 at 5.

You have informed this office the submitted documents are records concerning a juvenile probationer maintained by the department on behalf of the judiciary. We note that records held by the department that pertain to juveniles subject to the direct supervision of the court are judicial records. *See id.* at 2-3; *Benavides*, 665 S.W.2d at 151. Based on your representation and our review, we find Exhibits C, D-1, D-2, D-3, D-4, D-5, and D-6 are held by the department on behalf of the judiciary and, therefore, are not subject to disclosure under the Act. Our ruling does not address the public availability of this information, and the department need not release it in response to this request.<sup>1</sup> However, we find Exhibits B-1 and B-2 consist of the department's administrative records which reflect the day to day management of the department. Thus, this information is subject to the Act and must be released unless it is otherwise excepted from required disclosure. Gov't Code § 552.021. Accordingly, we will address your arguments against disclosure of this 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." *Id.* § 552.101. Section 552.101 encompasses section 261.201 of the Family Code, which states:

(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.

...

(k) Notwithstanding Subsection (a), an investigating agency, other than the [Texas Department of Family and Protective Services] or the Texas Youth Commission, on request, shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse

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<sup>1</sup>As our ruling is dispositive, we need not consider the remaining arguments against disclosure of this information.

or neglect, or to the child if the child is at least 18 years of age, information concerning the reported abuse or neglect that would otherwise be confidential under this section. The investigating agency shall withhold information under this subsection if the parent, managing conservator, or other legal representative of the child requesting the information is alleged to have committed the abuse or neglect.

Fam. Code § 261.201(a), (k). You assert Exhibits B-1 and B-2 were used or developed in investigations of alleged child abuse or neglect and are confidential under chapter 261 of the Family Code. *See id.* §§ 101.003(a) (defining “child” for purposes of section 261.201), 261.001(1), (4) (defining “abuse” and “neglect” for purposes of section 261.201 of Family Code). We note the department is not an agency authorized to conduct an investigation under chapter 261 of the Family Code. *See id.* § 261.103 (listing agencies that may conduct child abuse investigations). However, pursuant to section 261.405(b) of the Family Code, the department is required to report alleged abuse or neglect in a juvenile justice program to the Texas Juvenile Justice Department (the “TJJD”) and a local law enforcement agency for investigations.<sup>2</sup> *See id.* § 261.405(b); Act of May 30, 2017, 85th Leg., R.S., H.B. 249, § 6 (to be codified at Fam. Code § 261.405(c)) (the TJJD shall make a prompt, thorough investigation if the TJJD receives report of alleged abuse, neglect, or exploitation in any juvenile justice program or facility). You state the information at issue consists of information related to internal investigation reports. You further state the reports, and all documentation collected during the investigation, are submitted to the TJJD and become part of the investigation that TJJD is required to conduct in accordance with the Family Code. Upon review, we conclude Exhibits B-1 and B-2 consist of reports, records, or working papers used or developed in an investigation made under chapter 261 of the Family Code. Although the requestor is the parent of the child at issue, section 261.201(k) is not applicable because the department is not the agency that conducted the chapter 261 investigation. Therefore, Exhibits B-1 and B-2 are confidential pursuant to section 261.201 of the Family Code and must be withheld under section 552.101 of the Government Code.<sup>3</sup> *See* Open Records Decision No. 440 at 2 (1986) (construing predecessor statute).

In summary, Exhibits C, D-1, D-2, D-3, D-4, D-5, and D-6 are not subject to the Act and need not be released. Exhibits B-2 and B-3 must be withheld under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

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<sup>2</sup>Effective December 1, 2011, the Texas Juvenile Probation Commission became known as the Texas Juvenile Justice Department. *See* Hum. Res. Code § 201.001(b).

<sup>3</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

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,



Erin Groff  
Assistant Attorney General  
Open Records Division

EMG/sb

Ref: ID# 683386

Enc. Submitted documents

c: Requestor  
(w/o enclosures)