



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 27, 2017

Mr. Ricardo Vela, Jr.
Assistant District Attorney
Dallas County District Attorney's Office
133 North Riverfront Boulevard, LB19
Dallas, Texas 75207-4399

OR2017-26780

Dear Mr. Vela:

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# 685476.

The Dallas County District Attorney's office (the "district attorney's office") received a request for all video used in two specified prosecutions. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted 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." Gov't Code § 552.101. This section encompasses other laws that make information confidential,

¹We note the district attorney's office did not comply with the requirements of section 552.301 of the Government Code in requesting a ruling. *See* Gov't Code § 552.301(b). Nevertheless, section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness caused by a failure to comply with section 552.301. *See id.* §§ 552.007, .302. Thus, we will consider the district attorney's claim under that section.

such as section 260A.008 of the Health and Safety Code. Section 260A.008 provides the following:

A report, record, or working paper used or developed in an investigation made under [chapter 260A] and the name, address, and phone number of any person making a report under [chapter 260A] are confidential and may be disclosed only for purposes consistent with rules adopted by the executive commissioner [of the Health and Human Services Commission]. The report, record, or working paper and the name, address, and phone number of the person making the report shall be disclosed to a law enforcement agency as necessary to permit the law enforcement agency to investigate a report of abuse, neglect, exploitation, or other complaint in accordance with Section 260A.017.

Health & Safety Code § 260A.008. Chapter 260A pertains to reports of abuse, neglect, and exploitation of residents of certain facilities and investigations resulting from such reports. *See id.* §§ 260A.001-.018; *see also id.* §§ 260A.001(1) (defining “abuse” for purposes of chapter 260A), .001(5)(B) (defining “facility” to include “assisted living facility” for purposes of chapter 260A), .007 (concerning Department of Aging and Disability Services investigation and report).

You explain the submitted information consists of a report of alleged abuse of a resident of a facility used in an investigation by the Department of Aging and Disability Services under chapter 260A of the Health and Safety Code. *See id.* § 260A.008. Based upon your representation and our review, we find the submitted information consists of files, reports, records, communications, or working papers used or developed in an investigation made under chapter 260A. Accordingly, we conclude the district attorney’s office must withhold the submitted information in its entirety pursuant to section 552.101 of the Government Code in conjunction with section 260A.008 of the Health and Safety Code.²

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

²As our ruling is dispositive, we need not address your arguments against disclosure of this information.

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 read "Ramsey Abarca", with a long, sweeping flourish extending to the right.

Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/gw

Ref: ID# 685476

Enc. Submitted documents

c: Requestor
(w/o enclosures)