



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 21, 2017

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

OR2017-29038

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# 689363 (TJJJ ORR# 30973).

The Texas Juvenile Justice Department (the "department") received a request for a specified administrative investigative report. 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. 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

¹We note the department did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b). 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.

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 the submitted information 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, the submitted information 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 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 the submitted information under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family 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, 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,

A handwritten signature in black ink, appearing to read "Ashley Crutchfield". The signature is written in a cursive style with a large initial 'A'.

Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/som

Ref: ID# 689363

Enc. Submitted documents

c: Requestor
(w/o enclosures)