



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 8, 2018

Ms. Denika R. Caruthers
Administrative Legal Advisor
Dallas County Juvenile Department
2600 Lone Star Drive, Box 5
Dallas, Texas 75212

OR2018-00452

Dear Ms. Caruthers:

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# 690493.

The Dallas County Juvenile Probation Department (the "department") received a request for all grievances filed by residents of facilities run by the department within a specified period of time. You argue some information is not subject to the Act. You also claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered your arguments and reviewed the submitted information.

Initially, we note portions of the requested information may be the subject of a previous request for a ruling, as a result of which this office issued Open Records Letter No. 2017-21423 (2017). In that ruling, we determined the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. You state the law, facts, or circumstances upon which the prior ruling was based have not changed. Accordingly, to the extent the requested information is identical to the information previously requested and ruled upon, the department must continue to rely on Open Records Letter No. 2017-21423 as a previous determination, and withhold the previously ruled upon information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior

attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). However, to the extent the information in the current request is not encompassed by the prior ruling, we will consider your arguments.

Next, you assert the submitted information is not subject to the Act because it consists of judicial records. The Act is applicable only to “public information.” *See* Gov’t Code § 552.021. Section 552.002(a) of the Government Code defines “public information” as follows:

[I]nformation that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

(1) by a governmental body;

(2) for a governmental body and the governmental body:

(A) owns the information;

(B) has a right of access to the information; or

(C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or

(3) by an individual officer or employee of a governmental body in the officer’s or employee’s official capacity and the information pertains to official business of the governmental body.

Id. § 552.002(a). However, section 552.003 provides that, for purposes of the Act, the term “governmental body” does not include the judiciary. *Id.* § 552.003(1)(B). Information that is “collected, assembled, or maintained by or for the judiciary is governed by rules adopted by the Supreme Court of Texas or by other applicable laws and rules” and is not subject to the Act. *See id.* § 552.0035(a); *cf.* Open Records Decision No. 131 (1976) (applying statutory predecessor to judiciary exclusion under section 552.003(1)(B) prior to enactment of section 552.0035).

In determining whether information held by a governmental body falls within the judiciary exception to the Act, this office looks to whether the governmental body maintains the relevant records as an agent of the judiciary in a judicial, as opposed to an administrative, capacity. *See* Open Records Decision No. 646 at 3-4 (1996). This office has 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 day-to-day management of the department, are subject to the Act. *Id.* at 5. In contrast, specific records held by a community supervision and corrections department that concern individuals who are subject to the direct supervision of a court are not subject to the Act because such records are held on behalf of the judiciary. *Id.*

You assert the information at issue consists of judicial records. However, upon review, we find the submitted information consists of administrative records which reflect the day to day management of the department and, thus, is subject to the Act. Accordingly, we next consider your claimed exceptions for 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 information made confidential by other statutes, such as section 261.201(a) of the Family Code, which provides, in relevant part:

(a) [T]he 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). You state the submitted information is confidential under section 261.201(a) 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) (defining “abuse” for purposes of chapter 261 of the 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.¹ *See id.* § 261.405(b), (c) (the TJJD shall make a prompt, thorough investigation if the TJJD receives

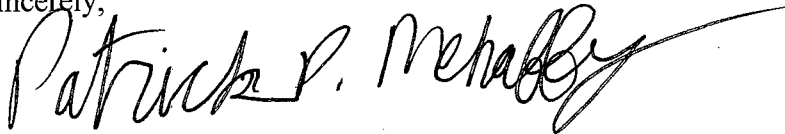
¹Effective December 1, 2011, the Texas Juvenile Probation Commission became known as the Texas Juvenile Justice Department. *See* Hum. Res. Code § 201.001(b).

report of alleged abuse, neglect, or exploitation in any juvenile justice program or facility). You state the submitted information consists of "internal investigation reports, escape report narratives, the [i]ncident [r]eport forms submitted by [the department] to TJJD... all of which becomes part of TJJD's Chapter 261 investigation." Based upon your representations, we conclude the submitted information consists of reports, records, or working papers used or developed in investigations made under chapter 261 of the Family Code. Therefore, the submitted information is confidential pursuant to section 261.201 of the Family Code and must be withheld under section 552.101 of the Government Code.² See Open Records Decision No. 440 at 2 (1986) (construing 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,



Patrick P. Mehaffy
Attorney
Open Records Division

PPM/som

Ref: ID# 690493

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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