



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 1, 2022

Mr. Russell W. Malm  
County Attorney  
Midland County  
500 North Loraine, Suite 1103  
Midland, Texas 79701

OR2022-26675

Dear Mr. Malm:

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# 967356 (Ref. No. R015812).

Midland County (the "county") received a request for four categories of information pertaining to a specified case. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

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 section 261.201(a) of the Family Code, which provides as follows:

[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:

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<sup>1</sup> We 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 that those records contain substantially different types of information than that submitted to this office.

(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). Upon review, we note the submitted information was used in an investigation by the county of a charge of failure to report child abuse. *See id.* § 261.109(a) (person commits offense if person has cause to believe that a child’s physical or mental health or welfare has been or may be adversely affected by abuse and knowingly fails to report); *see also id.* §§ 101.003 (defining “child” for purpose of this section as a 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). Therefore, we conclude the investigation at issue was conducted pursuant to chapter 261 of the Family Code. Accordingly, the submitted information falls within the scope of section 261.201 of the Family Code. You have not indicated the county has adopted a rule governing the release of this type of information. Therefore, we assume no such regulation exists. Given that assumption, the submitted information is confidential under section 261.201 of the Family Code, and the county must withhold it under section 552.101 of the Government Code.<sup>2</sup>

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Sarah E. Reese  
Attorney  
Open Records Division

SER/jm

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

Ref: ID# 967356

Enc. Submitted documents

c: Requestor  
(w/o enclosures)