



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

May 24, 1996

Mr. Richard J. Ybarra  
Open Records Coordinator  
Office of the Attorney General  
General Counsel Division  
P.O. Box 12548  
Austin, Texas 78711-2548

OR96-0800

Dear Mr. Ybarra:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 39438.

The Office of the Attorney General (the "OAG") received a request for records relating to Charter Hospital of Corpus Christi. You have released all information requested with the exception of two Texas Department of Health ("TDH") investigation reports regarding a 16-year-old's suicide in the psychiatric hospital which you contend is excepted from required public disclosure under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 261.201(a) of the Family Code provides:

The following information is confidential, is not subject to public release under Chapter 552, Government Code, 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;

(2) except as otherwise provided in this section, the files, reports, records, communications, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.<sup>1</sup>

(Footnote added). The information you submitted appears to be an investigation of alleged neglect of a child under chapter 261 and, therefore, section 261.201(a) makes this information confidential, subject to disclosure "only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency." You cite two rules of TDH, the investigating agency, regarding the confidentiality of the investigative process and reports, sections 1.207(a) and (f), which make these reports confidential. Additionally, the exceptions to section 261.201 do not appear to apply here. Accordingly, we agree that the requested information is made confidential by section 261.201 of the Family Code and must be withheld from disclosure under section 552.101 of the Government Code. *See* Open Records Decision No. 440 (1986) (applying former Fam. Code § 34.08).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Todd Reese  
Assistant Attorney General  
Open Records Division

RTR/rho

Ref.: ID# 39438

Enclosures: Submitted documents

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<sup>1</sup>Section 261.201 was added to the Family Code in the last legislative session and became effective, as amended, on September 1, 1995. Act of April 6, 1995, 74th Leg., R.S., ch. 20, § 1, 1995 Tex. Sess. Law Serv. 113, 262 (Vernon); Act of May 25, 1995, 74th Leg., R.S., ch. 751, §§ 93, 129, 1995 Tex. Sess. Law Serv. 3888, 3924, 3933 (Vernon). We apply the new law, as the request for information was received by the governmental body after September 1, 1995. However, we note that the result would be the same regardless of which law we applied to the requested information.

cc: Ms. Michelle D. Shircliffe, CLA  
Edwards, Terry, Baiamonte & Edwards  
P.O. Box 480  
Corpus Christi, Texas 78403-0480  
(w/o enclosures)

