



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

March 3, 1998

Mr. Martin L. Peterson  
Assistant District Attorney  
Office of the District Attorney for Bosque,  
Comanche and Hamilton Counties  
P.O. Box 368  
Meridian, Texas 76665

OR98-0573

Dear Mr. Peterson:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 112866.

The Office of the District Attorney (the "district attorney's office") received a request for "copies of all public information in your possession relating to the investigation, grand jury probe, and/or prosecution, if any, of [two specified individuals]." In response to the request, you submitted to this office for review a copy of the records, which you assert are responsive. You state that the requested information may be withheld from disclosure pursuant to sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

We first consider whether the requested records contain information that may be confidential and excepted from disclosure under section 552.101, in conjunction with section 261.201 of the Family Code. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 261.201(a) of the Family Code reads as follows:

(a) 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 . . . [the Family] code and applicable federal or state law or under rules adopted by an investigating agency:

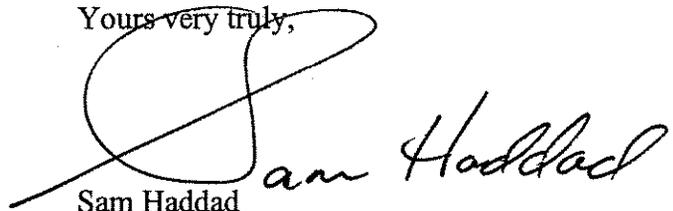
(1) a report of alleged or suspected abuse or neglect made under . . . chapter [261 of the Family Code] and the identity of the person making the report; and

(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 . . . chapter [261 of the Family Code] or in providing services as a result of an investigation.

The submitted information consists of documents which we believe to be "reports, records, communications, and working papers used or developed" in an investigation conducted under and subject to chapter 261 of the Family Code. Because you have not cited any specific rule that the district attorney's office has adopted with regard to the release of this type of information, we assume that no such regulation exists. Given that assumption, the requested records are confidential pursuant to section 261.201 (a) of the Family Code. *See* Open Records Decision No. 440 (1986) at 2 (predecessor statute). Consequently, the district attorney's office must withhold the requested information pursuant to section 261.201(a) of the Family Code, in conjunction with section 552.101 of the Government Code.

As we conclude that the district attorney's office must withhold the requested information based on section 552.101, we need not consider your section 552.108 claim. 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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Sam Haddad". The signature is written in a cursive style with a large, looping initial "S".

Sam Haddad  
Assistant Attorney General  
Open Records Division

SH/rho

Ref.: ID# 112866

Enclosures: Submitted documents

cc: Ms. Laura B. Brown  
Haley & Davis, P.C.  
Triangle Tower, Suite 600  
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Waco, Texas 76710  
(w/o enclosures)