



March 29, 1999

Mr. Stephen R. Lupton
District Attorney
51st Judicial District of Texas
124 West Beauregard
San Angelo, Texas 76903-5850

OR99-0866

Dear Mr. Lupton:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 123476.

The District Attorney's Office in San Angelo (the "DA") received a request for "copies of any and all materials, reports, and recordings concerning the investigation and prosecution" of a named person. You have submitted a representative sample of the responsive information.¹ You claim that the requested information is excepted from public disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 261.201 of the Family Code is a statute establishing certain information as confidential; it reads in pertinent part:

(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 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

¹ We assume that 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.

(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.

It appears that the requested information consists of reports, records, and working papers used or developed in an investigation made under chapter 261 of the Family Code. As you have not cited any specific rule that the DA has adopted with regard to the release of this type of information, these records are presumed confidential in their entirety. Accordingly, the information submitted 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).

Because we are able to make a determination under section 261.201 of the Family Code, we need not address your other claims at this time. 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.

Sincerely,

David Van Brunt Price
David Van Brunt Price
Assistant Attorney General
Open Records Division

DVP\nc

Ref: ID# 123476

Enclosures: Submitted documents

cc: Ms. Jeanine McGregor
1716 Sunset Drive
San Angelo, Texas 76904
(w/o enclosures)