



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 24, 2013

Mr. Jason Upshaw
Chief Deputy
Erath County Sheriff's Department
1043 Glen Rose Hwy
Stephenville, Texas 76401

OR2013-10606

Dear Mr. Upshaw:

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# 491042.

The Erath County Sheriff's Office (the "sheriff's office") received a request for five categories of information pertaining to two specified cause numbers. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed 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. Section 552.101 encompasses information made confidential by other statutes, including section 261.201 of the Family Code, which provides in relevant part the following:

(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). Upon review, we agree the submitted information was used or developed in investigations of alleged or suspected child abuse under chapter 261 of the Family Code, so as to fall within the scope of section 261.201(a). *See id.* § 261.001(1)(E) (definition of child abuse includes indecency with a child under Penal Code section 21.11 and sexual assault and aggravated sexual assault under Penal Code sections 22.011 and 22.021); *see also* Penal Code §§ 22.011(c)(1) (defining “child” for purposes of Penal Code sections 22.011 and 22.021 as person under 17 years of age), 21.11(a) (defining “child” for purposes of Penal Code section 21.11 as a person under 17 years of age). As you do not indicate that the sheriff’s office has adopted a rule that governs the release of this type of information, we assume that no such rule exists. We therefore conclude that the submitted information is confidential under section 261.201(a). Accordingly, the submitted information must be withheld in its entirety under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Mneka Kanu
Assistant Attorney General
Open Records Division

NK/bhf

Ref: ID# 491042

Enc. Submitted documents

c: Requestor
(w/o enclosures)