



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 18, 1995

Ms. Donna Rogers Hogg
Legal Assistant
City Attorney's Office
City of Georgetown
P.O. Box 409
Georgetown, Texas 78627-0409

OR95-1433

Dear Ms. Hogg:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 34172.

The City of Georgetown (the "city") received an open records request for the police department records pertaining to the city police department's investigation of the possible sexual assault of the requestor's daughter, a minor. You contend that because the requested records concern the investigation of a sexual assault the information may be withheld pursuant to common-law privacy as incorporated into section 552.101 of the Government Code.¹

Although you seek to withhold the requested information under common-law privacy, this office believes that the requested information is made confidential under the Family Code. More specifically, the requested information is made confidential by section 261.201(a) of the Family Code. *See* Act of April 20, 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, 1995 Tex. Sess. Law Serv. 3924 (Vernon). Section 261.201(a) of the Family Code provides:

¹Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," including the common-law right of privacy. *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 683-85 (Tex. 1976), cert. denied, 430 U.S. 931 (1977).

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:

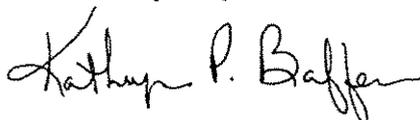
(1) a report of alleged or suspected abuse or neglect [of a child] made under this chapter and the identity of the person making the report; and

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

Act of May 25, 1995, 74th Leg., R.S., ch. 751, § 93, 1995 Tex. Sess. Law Serv. 3924 (Vernon) (emphasis added). Because the requested records pertain to an investigation of sexual abuse of a child, the records must be withheld pursuant to the above quoted provisions.²

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,



Kathryn P. Baffes
Assistant Attorney General
Open Records Division

KPB/RWP/rho

Ref.: ID# 34172

Enclosures: Submitted documents

²We note, however, that a parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect may be entitled, at least, to view the records of the investigation done by the Texas Department of Protective and Regulatory Services. See Act of May 25, 1995, 74th Leg., R.S., ch. 751, § 93, 1995 Tex. Sess. Law Serv. 3888, 3924 (to be codified at Fam. Code § 261.201).