



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 17, 1996

Mr. G. Chadwick Weaver
Assistant City Attorney
City of Midland
P.O. Box 1152
Midland, Texas 79702-1152

OR96-0051

Dear Mr. Weaver:

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# 37916.

The City of Midland (the "city") received an open records request for a particular offense report regarding the assault of the requestor's son, a minor. You contend that because this matter is "under an active and current investigation by the Midland Police Department" the requested information may be withheld pursuant to the "law-enforcement exception," section 552.108 of the Government Code.

Although you raise section 552.108, this office believes that the requested information is made confidential under the Family Code and thus more properly comes under the protection of section 552.101 of the Government Code, which excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." 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:

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 physical abuse of a child, the records must be withheld pursuant to the above quoted provisions.¹

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,



Loretta R. DeHay
Assistant Attorney General
Open Records Division

LRD/RWP/rho

Ref.: ID# 37916

Enclosures: Submitted documents

¹We note, however, that section 261.201(f) now provides in pertinent part:

[The Department of Protective and Regulatory Services], on request and subject to department rule, shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect information concerning the reported abuse or neglect that would otherwise be confidential under this section if the department has edited the information to protect the confidentiality of the identity of the person who made the report and any other person whose life or safety may be endangered by the disclosure.

Consequently, in this particular instance the requestor might be entitled to review the information in the possession of the Department of Protective and Regulatory Services pursuant to section 261.201(f).