



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 31, 1997

Ms. Y. Qiyamah Taylor
Assistant City Attorney
City of Houston
P. O. Box 1562
Houston, Texas 77251-1562

OR97-0216

Dear Ms. Taylor:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 103405.

The City of Houston Police Department (the department"), which your office represents, received "a request for a copy of the Police Report," concerning an incident involving an alleged offense reported by the requestor's child. You state that the department will make the public information portion of the offense report available to the requestor. However, you assert that the remaining information may be withheld from disclosure pursuant to section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Although you have not raised section 552.101 as an applicable exception, we must consider whether some of the information revealed in the submitted report, and subject to disclosure, should be excepted from required public disclosure under common-law privacy. The Office of the Attorney General will raise section 552.101 on behalf of a governmental body when necessary to protect third-party interests. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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. The requested records contain information that is confidential and excepted from disclosure under section 552.101, in conjunction with section 261.201(a) of the Family Code which 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 this code and applicable federal or state law or

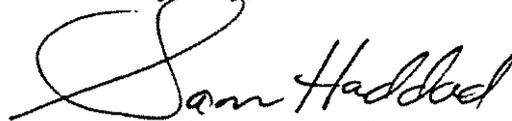
under rules adopted by an investigating agency:

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

The submitted information here consists of "reports, records, communications, and working papers used or developed" in an investigation conducted under chapter 261 of the Family Code. We believe subsection (a) is applicable to the submitted records. Because you have not cited any specific rule that the department 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 of the Family Code. See Open Records Decision No. 440 (1986) at 2 (predecessor statute). Consequently, since the submitted records are confidential by statute, the department 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.¹

Having concluded that the city must withhold the 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 upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Sam Haddad
Assistant Attorney General
Open Records Division

SH/ch

Ref.: ID# 103405

Enclosures: Submitted documents

¹We note that in some circumstances a parent of a child that is the subject of a Family Code chapter 261 investigation may be able to obtain information from the Department of Protective and Regulatory Services. See Family Code § 261.201(f).