



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

February 9, 1998

Mr. Kevin Pagan  
Assistant City Attorney  
City of McAllen  
P.O. Box 220  
McAllen, Texas 78505-0220

OR98-0402

Dear Mr. Pagan:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 113222.

The City of McAllen (the "city") received a request for a certain offense report. You assert that the requested report is excepted from required public disclosure based on section 552.108 of the Government Code. However, as we believe the requested report is deemed confidential by statute, we will raise section 552.101 of the Government Code on behalf of the city. *See* Open Records Decision No. 455 (1987).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 261.201 of the Family Code reads in part as follows:

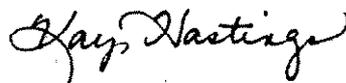
(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

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

We believe 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. Because you have not cited any specific rule that the city has adopted with regard to the release of this type of information, we assume that no such regulation exists. Given that assumption, the requested information is confidential pursuant to section 261.201 of the Family Code. *See* Open Records Decision No. 440 (1986) at 2 (construing predecessor statute). Accordingly, the city must not release the requested information to the requestor.<sup>1</sup> Gov't Code § 552.101.

We are resolving this matter with this 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 may 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,



Kay Hastings  
Assistant Attorney General  
Open Records Division

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Ref: ID# 113222

Enclosures: Submitted documents

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<sup>1</sup>We note that section 261.201(f) of the Family Code grants a parent of a child who is the subject of child abuse or neglect investigation a right to obtain certain information concerning the investigation from the Texas Department of Protective and Regulatory Services.