



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 11, 1998

Captain Robert Taylor
Amarillo Police Department
City of Amarillo
200 S.E. Third Avenue
Amarillo, Texas 79101-1514

OR98-0414

Dear Captain Taylor:

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# 112674.

The City of Amarillo Police Department (the "department") received a request for specific police reports, identified as incident report numbers 97-84386 and 97-84392. In response to the request, you submitted to this office for review a copy of the incident reports which you assert are responsive. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

Because the act prohibits the release of confidential information and because its improper release constitutes a misdemeanor, the attorney general will raise section 552.101 on behalf of a governmental body. *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:

¹You assert that the requested incident reports are "excepted from disclosure because they have not been adjudicated and therefore have not resulted in a conviction or deferred adjudication against any person." Section 552.108(a)(2) provides that information is excepted from disclosure if "it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication."

(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.² 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 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 department must not release the requested information to the requestor. Gov't Code § 552.101.

As we resolve this matter under section 552.101, we need not address your section 552.108 argument. 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,



Sam Haddad

Assistant Attorney General
Open Records Division

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²We note that a parent of a victim of alleged child abuse or neglect may have a right to obtain from the Texas Department of Protective and Regulatory Services portions of the information concerning a report of alleged abuse or neglect. Fam. Code § 261.201(f).

Ref.: ID# 112674

Enclosure: Submitted document

cc: Mr. Kimberly C. Bird
7116 Imperial 32
Amarillo, Texas 79106
(w/o enclosure)