



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 16, 1998

Mr. Sim W. Goodall
Police Legal Advisor
City of Arlington
101 West Abram Street
Arlington, Texas 76004-0231

OR98-1684

Dear Mr. Goodall:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 116822.

The Arlington Police Department (the "department") received a request for documents relating to the sexual assault of a child. You contend that the responsive documents are excepted from disclosure under section 552.108 of the Government Code. You also contend that the documents are excepted from disclosure under section 552.101 of the Government Code in conjunction with the common-law right to privacy and section 261.201 of the Family Code. We have considered the exceptions you claim and have reviewed the documents at issue.

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(a) of the Family Code provides 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, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Because the requested documents relate to an allegation of child abuse, the documents are within the scope of section 261.201 of the Family Code. You have not indicated that the department has adopted a rule that governs the release of this type of information. Therefore, we assume that no such regulation exists. Given that assumption, the requested documents are confidential pursuant to section 261.201 of the Family Code. *See* Open Records Decision No. 440 (1986) at 2 (predecessor statute). Accordingly, the department must withhold the requested documents from disclosure under section 552.101 of the Government Code as information made confidential by law.¹

We note that the documents at issue include the results of a polygraph examination. Section 19A(b) of article 4413(29cc), V.T.C.S. provides as follows:

Except as provided by Subsection (d) of this section, a person for whom a polygraph examination is conducted or an employee of the person may not disclose to another person information acquired from the examination.

Both polygraph reports and references to polygraph results are confidential under section 19A(b), and the department must withhold such information from disclosure pursuant to section 552.101 of the Government Code.

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,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/mjc

¹We note, however, that if the Texas Department of Protective and Regulatory Services has created a file on this alleged abuse, the child's parent(s) may have the statutory right to review that file. *See* Fam. Code § 261.201(f).

Ref: ID# 116822

Enclosures: Submitted documents

cc: Ms. Leann Griffith
P.O. Box 1976
Mansfield, Texas 76063
(w/o enclosures)