



April 15, 1999

Ms. Kristi LaRoe
Assistant District Attorney
Tarrant County
Office of the Criminal District Attorney
Justice Center
401 West Belknap
Fort Worth, Texas 7696-0201

OR99-1026

Dear Ms. LaRoe:

You ask whether certain information is subject to required public disclosure under the Texas Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 123373.

The Tarrant County District Attorney (the "district attorney") received an open records request for a particular prosecution file. You contend that the requested information is exempted from required public disclosure pursuant to sections 552.101 and 552.108 of the Government Code.¹

Although the attorney general will not ordinarily raise an exception that might apply but that the governmental body has failed to claim, *see* Open Records Decision No. 325 at 1 (1982), we will raise confidentiality statutes in conjunction 552.101 of the Government Code, which protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," because the release of confidential information could impair the rights of third parties and because the improper release of confidential information constitutes a misdemeanor. *See* Government Code § 552.352.

The information at issue pertains to the district attorney's investigation and prosecution of the alleged indecency with a child. Section 261.201(a) of the Family Code provides:

¹Although you also contend that the requested information may be withheld pursuant to section 552.111 as "attorney work product," we note that you did not raise this exception within the statutory ten business days following the district attorney's receipt of the open records request. We therefore do not deem this exception as being timely raised. *See* Gov't Code § 552.301(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:

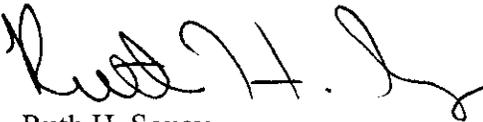
(1) a report of alleged or suspected abuse or neglect [of a child] made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, *the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.* [Emphasis added.]

You have not informed this office of any rules the district attorney has adopted that would permit access to the requested records. Because the information at issue pertains to an investigation of sexual abuse of a child, this office concludes that the district attorney must withhold the information at issue in its entirety pursuant to section 261.201 of the Family Code.² *But see* Fam. Code § 261.201(b) (provision for court ordered access), (f) (limited right of access by parent to records held by Department of Protective and Regulatory Services).

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.

Sincerely,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/RWP/ch

²Because we resolve your request under section 261.201 of the Family Code we need not address the applicability of the other exceptions you timely raised.

Ref.: ID# 123373

encl. Submitted documents

cc: Ms. Rosalyn R. Peacock
Brown, Thompson, Pruitt & Peterson
500 Throckmorton, #3030
Fort Worth, Texas 76102-3817
(w/o enclosures)