



April 27, 1999

Ms. Judith Hunter
Paralegal
City Attorney's Office
P.O. Box 409
Georgetown, Texas 78627-0409

OR99-1149

Dear Ms. Hunter:

You have asked whether certain information is subject to required public disclosure under the Public Information Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 123606.

The City of Georgetown (the "city") received a request for information relating to a specific case number, concerning the requestor. In response to the request, you submit to this office for review the information you assert is responsive. You seek to withhold the submitted information pursuant to section 552.108, and the informer's privilege as incorporated into section 552.101 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Although you raise section 552.108, this office believes that the requested information is made confidential under the Family Code and thus more properly comes under the protection of section 552.101 of the Government Code.² 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.

¹As a preface to our discussion, we note that this office has previously addressed whether records responsive to a similar request for information were subject to an exception to required disclosure. In Open Records Letter No. 95-1547 (1995), our office concluded that the city, which had only raised section 552.108 as an exception, could withhold the information concerning the specified case number pursuant to section 552.101 of the Government Code, in conjunction with section 261.201(a) of the Family Code.

²The Office of the Attorney General will raise section 552.101 on behalf of a governmental body when necessary to protect third-party interests. See generally Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Specifically, the requested information is made confidential by section 261.201(a) of the Family Code. Section 261.201(a) of the Family Code 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 . . . [the Family] 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 . . . chapter [261 of the Family Code] 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 . . . chapter [261 of the Family Code] or in providing services as a result of an investigation.

The submitted information consists of documents which we believe are “reports, records, communications, . . . and working papers used or developed” in an investigation conducted under and subject to 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(a) of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute). Consequently, the city 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.

As we conclude that the city must withhold the requested information based on section 261.201, we need not consider your claimed exceptions at this time. 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,

A handwritten signature in black ink that reads "Sam Haddad". The signature is written in a cursive style with a large, looping initial "S".

Sam Haddad

Assistant Attorney General
Open Records Division

SH/nc

Encl: Submitted documents

Ref: ID# 123606

cc: Mr. Jerry Hawkins
P. O. Box 1183
Georgetown, Texas 78627
(w/o enclosures)