



May 19, 1999

Ms. Lilia Ledesma-Gonzalez  
Assistant City Attorney  
City of McAllen  
P.O. Box 220  
McAllen, Texas 78505-0220

OR99-1383

Dear Ms. Ledesma-Gonzalez

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 124282.

The City of McAllen (the "city") received a request for records concerning a particular individual<sup>1</sup>. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We assume that you have released to the requestor any information that you did not submit to this office. We have considered the exception you claim and reviewed the submitted information.

After reviewing the submitted information, we conclude that case numbers 88-037243 and 95-034797 are confidential under section 552.101, which 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:

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:

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<sup>1</sup>The submitted information does not identify the individual named in the request as a suspect, and, therefore, her privacy interests are not implicated. *See United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989) (individual's criminal history information compiled by governmental entity implicates the individual's right to privacy).

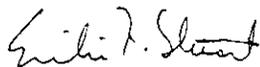
- (1) a report of alleged or suspected abuse or neglect [of a child] made under this chapter and the identity of the person making the report; and
- (2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

The information in case number 88-037243 resulted from an investigation of the assault of a child. We are not aware of any rules promulgated by the city which permit the dissemination of this type of information. Accordingly, case number 88-037243 is made confidential in its entirety by section 261.201 of the Family Code and must be withheld from disclosure under section 552.101 of the Government Code. *See* Open Records Decision No. 440 (1986) (applying former Fam. Code § 34.08).

Section 58.007 of the Family Code makes certain juvenile law enforcement records confidential. Prior to its repeal by the Seventy-fourth Legislature, section 51.14(d) of the Family Code provided for the confidentiality of juvenile law enforcement records. Law enforcement records pertaining to conduct occurring before January 1, 1996 are governed by the former section 51.14(d), which was continued in effect for that purpose. Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex. Gen. Laws 2517, 2591 (Vernon). Case #95-03497 concerns juvenile conduct that occurred before January 1, 1996. Therefore, # 95-03497 must be withheld from disclosure under section 552.101 of the Government Code in conjunction with former section 51.14(d) of the Family 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.

Sincerely,



Emilie F. Stewart  
Assistant Attorney General  
Open Records Division

EFS\nc

Ref: ID# 124282

Encl: Submitted documents

cc: Mr. Felepe Saenz  
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(w/o enclosures)