



November 1, 1999

Lieutenant Arturo Valdez  
McAllen Police Department  
Central Record Division  
1501 Pecan Boulevard  
McAllen, Texas 78501

OR99-3057

Dear Lieutenant Valdez:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 129928.

The McAllen Police Department (the "department") received a request for incident report number 9928417. You assert that the information requested is excepted from required public disclosure by section 261.201 of the Family Code and section 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.

You assert that the information at issue is made confidential by section 261.201(a) of the Family Code, and is therefore, protected from disclosure by section 552.101 of the Government Code. 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. Section 261.201(a) of the Family Code provides that

(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.<sup>1</sup> You have not informed this office of any rules the city has adopted that would permit access to the requested records. We, therefore, conclude that the requested records are confidential pursuant to section 261.201 of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (construing predecessor statute). Accordingly, the department must not release the requested records to the requestor under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

Because we are able to address this matter under section 261.201 of the Family Code, we do not address your additional argument against disclosure. 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,



Carla Gay Dickson  
Assistant Attorney General  
Open Records Division

CGD/nc

Ref: ID# 129928

Encl. Submitted documents

cc: Ms. Rosa Laura Henry  
Dolly's Family Childcare  
1709 N. 34<sup>th</sup> Street  
McAllen, Texas 78501  
(w/o enclosures)

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<sup>1</sup>We note that a parent or other legal representative 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(g).