



September 18, 2000

Ms. Tenley A. Aldredge  
Assistant County Attorney  
County of Travis  
P.O. Box 1746  
Austin, Texas 78767

OR2000-3593

Dear Ms. Aldredge:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 139271.

The Travis County Sheriff's Office (the "sheriff's office") received a request for records relating to an alleged sexual molestation of a child. The requestor is an attorney for the child's mother. You claim that the requested information is excepted from disclosure under sections 552.101, 552.103, and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the information you submitted.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Thus, section 552.101 encompasses information made confidential by statute. Statutory confidentiality under section 552.101 generally requires express language providing that certain information is confidential or stating that it shall not be released to the public. *See* Open Records Decision No. 478 at 2 (1987). Chapter 261 of the Family Code governs investigations of reported child abuse or neglect. Section 261.201 provides in relevant part:

(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.

Fam. Code § 261.201(a). We believe that the submitted information represents files, reports, records, and working papers used or developed in an investigation under chapter 261 of the Family Code. You have not informed us of any rule adopted by the sheriff's office that would permit access to the information in question. We therefore conclude that the requested information is confidential under section 261.201 of the Family Code. *See* Open Records Decision No. 440 (1986) (construing predecessor statute). Consequently, the requested information is excepted from disclosure under section 552.101 of the Government Code and must not be released.<sup>1</sup> As we are able to make a determination under section 552.101, we need not address your claims under sections 552.103 and 552.108.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839.

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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 portions of the requested information from the Texas Department of Protective and Regulatory Services. *See* Fam. Code § 261.201(g).

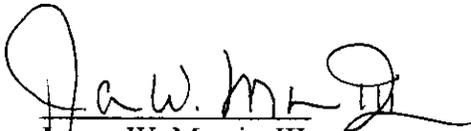
The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/ljp

Ref: ID# 139271

Encl. Submitted documents

cc: Ms. Leslie McCollom  
O'Hanlon & Associates  
808 West Avenue  
Austin, Texas 78701  
(w/o enclosures)