



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 4, 1998

Ms. Martha M. Dominguez
Interim Records Management Officer
Ysleta Independent School District
9600 Sims Drive
El Paso, Texas 79925-7225

OR98-0344

Dear Ms. Dominguez:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 112561.

The Ysleta Independent School District (the "district") received a request for information concerning allegations of abuse or neglect against three school officials. The request was made by a child protective services specialist with the Texas Department of Protective and Regulatory Services (the "department"). You ask whether you may withhold some of the requested information under sections 552.101 and 552.117 of the Government Code. We have considered the exceptions you claim and reviewed the representative sample of documents.¹

Generally, information may be transferred between governmental agencies which are subject to the Open Records Act without destroying the confidential nature of the information. Attorney General Opinion JM-590 (1986); Open Records Decision Nos. 655 (1997), 567 (1990), 561 (1990), 516 (1989). These decisions are grounded in the well settled policy of the state that state agencies should cooperate with each other in the interest of the efficient and economical administration of their statutory duties. *See* Open Records Decision No. 516 (1989). These decisions also recognize that a release to a state agency is not a release to the public for purposes of Government Code section 552.007, which prohibits the selective disclosure of information, and Government Code section 552.352, which provides

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach and, therefore, does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

criminal penalties for the release of information considered to be confidential under the act. *See id.* For example, information that is excepted from public disclosure under the Open Records Act may be transferred between state agencies without destroying its confidential character if the agency to which the information is transferred has the authority to obtain it. *See Open Records Decision Nos. 516 (1989) (Department of Public Safety transfer to Texas Attorney General's Child Support Enforcement Office authorized by statute), 490 (1988).* The principle that information may be transferred without destroying its confidential character, however, does not apply where a statute makes the information confidential and allows the transfer of the information to only certain enumerated entities. *See Attorney General Opinion JM-590 (1986); Open Records Decision Nos. 655 (1997), 650 (1996).* We believe in this case that the department has the authority to receive the requested information.

The department is required to investigate reports of alleged or suspected abuse or neglect allegedly committed by a person responsible for the child's care. Fam. Code § 261.301. Sections 261.301(d) and (e) of the Family Code provide that

(d) The department may by rule assign priorities and prescribe investigative procedures for investigations based on the severity and immediacy of the alleged harm to the child. The primary purpose of the investigation shall be the protection of the child.

(e) As necessary to provide for the protection of the child, the department or designated agency shall determine:

- (1) the nature, extent, and cause of the abuse or neglect;
- (2) the identity of the person responsible for the abuse or neglect;
- (3) the names and conditions of the other children in the home;
- (4) an evaluation of the parents or persons responsible for the care of the child;
- (5) the adequacy of the home environment;
- (6) the relationship of the child to the persons responsible for the care, custody, or welfare of the child; and
- (7) all other pertinent data.

Fam. Code § 261.301(d)-(e). Further, section 261.302 provides the following:

- (a) The investigation may include:
 - (1) a visit to the child's home, unless the alleged abuse or neglect can be confirmed or clearly ruled out without a home visit; and
 - (2) an interview with and examination of the subject child, which may include a medical, psychological, or psychiatric examination.
- (b) The interview with and examination of the child may:
 - (1) be conducted at any reasonable time and place, including the child's home or the child's school;
 - (2) include the presence of persons the department or designated agency determines are necessary; and
 - (3) include transporting the child for purposes relating to the interview or investigation.
- (c) The investigation may include an interview with the child's parents and an interview with and medical, psychological, or psychiatric examination of any child in the home.

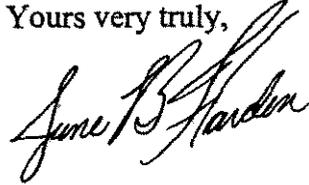
It appears in this instance that the department is conducting a statutorily required investigation of a report of alleged child abuse or neglect. Given the department's statutory authority to investigate reports of suspected child abuse or neglect, we believe that the district must release the requested information to the department. Open Records Decision No. 516 (1989). We point out, nonetheless, that the information transferred by the district will be confidential in the hands of the department. Section 261.201 of the Family Code provides:

- (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.

Thus, the information transferred by the district to the department may not be released except as provided by statute. Fam. Code § 261.201(b) - (f).

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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/ulg

Ref: ID# 112561

Enclosures: Submitted documents

cc: Ms. Martha Herrera
CPS Specialist IV
Texas Department of Protective and
Regulatory Services
119 N. Stanton
El Paso, Texas 79901
(w/o enclosures)