



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 24, 1998

Ms. Barbara G. Heptig
Assistant City Attorney
City of Arlington
P.O. Box 231
Arlington, Texas 76004-0231

OR98-1751

Dear Ms. Heptig:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 116971.

The Arlington Police Department (the "department") received a request for two arrest warrant affidavits relating to the sexual assault of children. You contend that these documents are excepted from disclosure under section 552.108 of the Government Code. You also contend that the documents are excepted from disclosure under section 552.101 of the Government Code in conjunction with the common-law right to privacy. We have considered the exceptions you claim and have reviewed the documents at issue.

Section 552.101 of the Government Code 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 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 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, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Because the requested documents relate to an allegation of child abuse, the documents are within the scope of section 261.201 of the Family Code. You have not indicated that the department has adopted a rule that governs the release of this type of information. Therefore, we assume that no such regulation exists. Given that assumption, the requested documents are confidential pursuant to section 261.201 of the Family Code. *See* Open Records Decision No. 440 (1986) at 2 (predecessor statute). Accordingly, the department must withhold the requested documents from disclosure under section 552.101 of the Government Code as information made confidential by law.

Because we are able to resolve this matter under section 261.201 of the Family Code, we do not address your other arguments 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.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/mjc

Ref: ID# 116971

Enclosures: Submitted documents

cc: Mr. C. D. Giddens
1111 West Abram Street
Arlington, Texas 76013
(w/o enclosures)