



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

July 24, 1998

Mr. Miles K. Risley  
Senior Assistant City Attorney  
City of Victoria  
Legal Department  
P.O. Box 1758  
Victoria, Texas 77902-1758

OR98-1756

Dear Mr. Risley:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 117007.

The City of Victoria has received a request for a copy of an offense report generated by its police department in response to an allegation of sexual misconduct by a substitute teacher in the Victoria Independent School District toward a minor student. You contend that the report is made confidential by Government Code section 552.101 in conjunction with section 261.201 of the Family Code. We have reviewed the report at issue and your arguments and agree that the report should be withheld from public disclosure.

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 of the Family Code reads in part 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

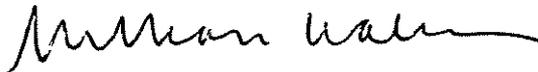
(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Gov't Code § 261.201(a).

Section 261.001 of the Family Code defines "abuse" as used in section 261.201(a)(1), supra, and elsewhere in chapter 261, as including "sexual conduct harmful to a child's mental, emotional or physical welfare." We believe that the requested information consists of "a report of alleged abuse" under section 261.201(a)(1). Because you have not cited any specific rule that the city or police department has adopted under subsection (a), we assume no such rule exists with regard to the release of the type of information at issue here. Given that assumption, the requested information is confidential pursuant to section 261.201 of the Family Code and may not be released to the public. See Open Records Decision No. 440 (1986) at 2 (construing predecessor statute).

We are resolving this matter with this 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 may 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,



William Walker  
Assistant Attorney General  
Open Records Division

WMW/KHG/ch

Ref.: ID# 117007

Enclosures: Submitted documents

cc: Mr. Billy Nichols  
Personnel Director  
Victoria Independent School District  
P.O. Box 1759  
Victoria, Texas 77902  
(w/o enclosures)