



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 12, 1998

Capt. Robert Taylor
Amarillo Police Department
200 S.E. Third Avenue
Amarillo, Texas 79101-1514

OR98-1911

Dear Captain Taylor:

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# 117287.

The City of Amarillo (the "city") received a request for Incident Report No. 98-26299. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

The Office of the Attorney General will raise mandatory exceptions like sections 552.101 and 552.117 on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Consequently, we first consider whether the requested records contain information that may be confidential and excepted from disclosure under section 552.101 in conjunction with section 261.201 of the Family 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 reads 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 . . . [the Family] 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 . . . chapter [261 of the Family Code] 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 . . . chapter [261 of the Family Code] or in providing services as a result of an investigation.¹

The submitted information consists of documents which we believe to be "reports, records, communications, and working papers used or developed" in an investigation conducted under and subject to chapter 261 of the Family Code. Given the assumption that the department does not have specific rules which govern the release of this type of information, the requested records are confidential pursuant to section 261.201 (a) of the Family Code. See Open Records Decision No. 440 (1986) at 2 (predecessor statute). Consequently, the department's office must withhold the requested information pursuant to section 261.201(a) of the Family Code, in conjunction with section 552.101 of the Government Code.

As we conclude that the department must withhold the requested information based on section 552.101, we need not consider your section 552.108 claim. 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.

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,



Janet I. Monteros
Assistant Attorney General
Open Records Division

JIM/gnc

Ref.: ID# 117287

¹See also section 261.00 of the Family Code defining 'abuse,' 'neglect.'

Enclosures: Submitted documents

c: Ms. Marie Perez
2736 Palm
Amarillo, Texas 79107
(w/o enclosures)