



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 18, 1998

Mr. Joseph Clark
Chief of Police
City of Teague Police Department
105 S. 4th Avenue
Teague, Texas 75860

OR98-3193

Dear Mr. Clark:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 120791.

The City of Teague Police Department (the "department") received requests from the same attorney for information related to two criminal prosecutions. You generally claim the protection of section 552.108 of the Government Code for information responsive to the requests.

The August 24, 1998, request asks for information relating to a criminal prosecution for "Injury to a Child." Section 552.101 of the Government Code requires withholding information made confidential by law. Subsection (a) of 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 . . . [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

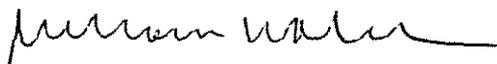
(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under . . . chapter [261 of the Family Code] or in providing services as a result of an investigation.

The information you submitted in response to the August 24 request consists of "reports, records, communications, and working papers used or developed" in an investigation made under chapter 261 of the Family Code. Thus, this information may be disclosed only for purposes consistent with the Family Code and applicable federal or state law or under rules adopted by the department. You have not informed this office that the department has adopted any rules providing for release of this information. We conclude that the information you submitted as responsive to the August 24 request is confidential and must be withheld in its entirety. *But see*, Family Code § 261.201(b)-(f) (Court ordered access; special rights of access).

The September 25, 1998, request asks for information regarding another criminal prosecution. The requestor has informed this office in an October 12, 1998, letter that he has filed a petition for mandamus against the City of Teague and its police chief seeking disclosure of the information requested in his September 25 request. It is the policy of this office not to address issues that are being considered in pending litigation. Accordingly, this decision will not address the requestor's September 25 request. We will allow the court to resolve the issue of whether these records must be released to the requestor.

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,



William Walker
Assistant Attorney General
Open Records Division

WMW/rho

Ref: ID# 120791

Enclosures: Submitted documents

cc: Mr. James V. Fulcher
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(w/o enclosures)