



May 4, 1999

Ms. Patricia G. Prowse  
Assistant Criminal District Attorney  
Bexar County Criminal District Attorney's Office  
300 Dolorosa Street, Fifth Floor  
San Antonio, Texas 78205-3030

OR99-1217

Dear Ms. Prowse:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 124890.

The Bexar County Criminal District Attorney's Office received a request for certain information in a criminal file. You submitted representative samples of the information responsive to the request.<sup>1</sup> You seek to withhold the requested information under section 552.108(a)(2) of the Government Code.

A portion of the submitted information is made confidential under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. Section 552.101 requires withholding, *inter alia*, information made confidential by statute. Section 58.007(c) of the Family Code provides in pertinent part:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child may not be disclosed to the public and shall be:

(1) kept separate from adult files and records; and

(2) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

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<sup>1</sup>In reaching our conclusion, we 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 No. 499 (1988), 497 (1988) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). 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.

The September 3, 1997 San Antonio Police Department report you submitted appears to be subject to section 58.007(c). The exceptions to confidentiality provided for in the statute are inapplicable here. Therefore, you must withhold the September 3, 1997 report in its entirety under section 58.007(c).

The balance of the submitted information is made confidential under section 261.201(a) of the Family Code, which provides:

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:

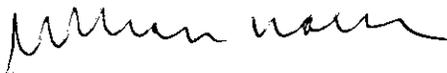
(1) a report of alleged or suspected abuse or neglect [of a child] made under this chapter and the identity of the person making the report; and

(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.* [Emphasis added.]

You have not informed this office of any rules your office has adopted that would permit access to the requested records. Because the information at issue pertains to an alleged assault of a child, we conclude that you must withhold the balance of the submitted records in their entirety pursuant to section 261.201 of the Family Code. *But see* Fam. Code § 261.201(b) (provision for court ordered access), (f) (limited right of access to records held by Department of Protective and Regulatory Services).

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.

Sincerely,



William Walker  
Assistant Attorney General  
Open Records Division

WMW/eaf

Ref.: ID# 124890

encl: Marked documents

cc: Mr. Ben M. Sifuentes, Jr.  
417 San Pedro  
San Antonio, Texas 78212  
(w/o enclosures)