



May 26, 1999

Mr. Jason C. Marshall
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
1800 Lincoln Plaza
500 North Akard
Dallas, Texas 75201

OR99-1457

Dear Mr. Marshall:

You ask whether certain information is subject to required public disclosure under the Texas Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 124875.

The City of Coppell (the "city") received an open records request for documents pertaining to an alleged instance of a high school student being assaulted by a coach. You contend the requested information is excepted from required public disclosure pursuant to sections 552.101 and 552.108 of the Government Code.

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, *statutory*, or by judicial decision." (Emphasis added.) You contend that the requested police records are made confidential under chapter 58 of the Family Code because "the responsive information is criminal investigative information that relates to a juvenile." Section 58.007(c) of the Family Code provides for the confidentiality of law enforcement records pertaining to juvenile offenders. This and similar provisions contained in chapter 58 of the Family Code do not pertain to juvenile victims of crime. Chapter 58 is inapplicable to the records at issue.

We note, however, that section 261.201(a)(1) of the Family Code makes confidential "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." (Emphasis added.) Although the city police department did not investigate the alleged incident as a case of child abuse or neglect, we believe that the identity of the individual reporting the incident to the police and to Child

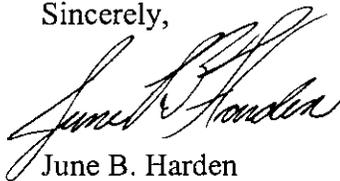
Protective Services is nevertheless entitled to confidentiality under section 261.201(a)(1). On the other hand, because neither the city police department nor Child Protective Services considered the alleged offense to constitute child abuse, none of the remaining information contained in the police file, including the identity of the juvenile victim, may be withheld pursuant to section 261.201.

We now address the applicability of the other exception you raise, section 552.108 of the Government Code. Section 552.108(a)(2) excepts from required public disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication.” Because you inform us that the investigation of this incident has concluded and that the matter will not be prosecuted, we conclude that you have met your burden of establishing the applicability of section 552.108(a)(2) to the records at issue. Most of the information contained in these records, therefore, may be withheld.

Section 552.108 does not, however, except from required public disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). The city must release these types of information from the records at issue in accordance with *Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

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,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/RWP/ch

Ref: ID# 124875

encl. Submitted documents

cc: Mr. John Robinson
450 Christi Lane
Coppell, Texas 75019
(w/o enclosures)