



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 11, 2012

Chief Todd A. Radford
Chief of Police
City of Lakeway Police Department
104 Cross Creek
Lakeway, Texas 78734-4465

OR2012-05189

Dear Chief Radford:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the “Act”), chapter 552 of the Government Code. Your request was assigned ID# 450349.

The City of Lakeway (the “city”) received a request for all records regarding three child sexual abuse cases. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Section 552.101 encompasses information made confidential by other statutes, including section 261.201 of the Family Code.¹ Section 261.201 provides in relevant part:

(a) [T]he following information is confidential, is not subject to public release under [the Act] and may be disclosed only for purposes consistent

¹We note you raise section 552.101 of the Government Code in conjunction with section 264.408 of the Family Code. However, section 261.201 of the Family Code is applicable to the records of a police department used or developed in an investigation of alleged or suspected child abuse or neglect. Accordingly, we address your argument under section 261.201 rather than section 264.408 of the Family Code.

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.

...

(k) Notwithstanding Subsection (a), an investigating agency, other than the [Texas Department of Family and Protective Services] or the Texas Youth Commission, on request, shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect, or to the child if the child is at least 18 years of age, information concerning the reported abuse or neglect that would otherwise be confidential under this section. The investigating agency shall withhold information under this subsection if the parent, managing conservator, or other legal representative of the child requesting the information is alleged to have committed the abuse or neglect.

(l) Before a child or a parent, managing conservator, or other legal representative of a child may inspect or copy a record or file concerning the child under Subsection (k), the custodian of the record or file must redact:

...

- (2) any information that is excepted from required disclosure under [the Act], or other law; and
- (3) the identity of the person who made the report.

Fam. Code § 261.201(a), (k), (l). We find the submitted information was used or developed in investigations of alleged or suspected child abuse under chapter 261 of the Family Code. *See id.* §§ 261.001(1) (defining “abuse” for purposes of Fam. Code ch. 261), 101.003 (defining “child” for purposes of Fam. Code title 5). However, the requestor is a parent of the child victims listed in the reports and is not alleged to have committed the suspected abuse or neglect. Accordingly, the submitted information may not be withheld from this requestor on the basis of section 261.201(a). *See* Fam. Code § 261.201(k). However, section 261.201(l) states before a parent can copy and inspect a record of her children under

section 261.201(k), the identity of the reporting party must be redacted. *Id.* § 261.201(l)(3). Further, section 261.201(l)(2) states any information excepted from required disclosure under the Act or other law must be withheld from disclosure. *Id.* § 261.201(l)(2). Thus, we will address your remaining arguments against disclosure of the submitted information.

Section 552.108(a)(2) of the Government Code excepts from 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[.]” Gov’t Code § 552.108(a)(2). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A). You state the submitted information relates to closed cases that did not result in conviction or deferred adjudication. Based on this representation and our review, we conclude section 552.108(a)(2) of the Government Code is applicable to the submitted information.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov’t Code § 552.108(c). Basic information refers to the basic front-page information held to be public in *Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975). Accordingly, the city must release basic offense and arrest information, including a detailed description of the offense, even if the information does not literally appear on the front page of an offense or arrest report. *See* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). As noted above, section 261.201(l)(3) of the Family Code requires the identity of the reporting party be redacted from any information being released to the parent of a child victim. Therefore, when releasing basic information under section 552.108(c) of the Government Code, the city must withhold the identities of the reporting parties, which we have marked, under section 261.201(l)(3) of the Family Code.²

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public

²As noted, the requestor has a right of access under section 261.201(k) of the Family Code to the information being released. Accordingly, if the city receives another request for this information from a different requestor, it must again seek a ruling from this office.

information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,

A handwritten signature in cursive script that reads "Jessica Marsh".

Jessica Marsh
Assistant Attorney General
Open Records Division

JM/em

Ref: ID# 450349

Enc. Submitted documents

c: Requestor
(w/o enclosures)