



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 14, 2014

Mr. Kenneth E. East  
Counsel for the Town of Lakeside  
Foster and East  
9001 Airport Freeway, Suite 675  
North Richland Hills, Texas 76180

OR2014-12112

Dear Mr. East:

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# 534609.

The Lakeside Police Department (the "department"), which you represent, received a request for all reports regarding the requestor, a named individual and a specified address. You inform us the department has released some of the requested information to the requestor. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> We have considered the exception 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."

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<sup>1</sup>We note the department failed to comply with the procedural requirements of section 552.301(e-1) of the Government Code by not providing the requestor with any portion of its arguments under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. *See* Gov't Code § 552.301(e-1) (requiring governmental body that submits written comments to the attorney general to send copy of comments to the requestor within fifteen-business-days of receiving request). Nonetheless, section 552.101 is a mandatory exception that constitutes a compelling reason sufficient to overcome the presumption of openness caused by the failure to comply with section 552.301. *See id.* §§ 552.007, .302. Therefore, we will address the department's argument under section 552.101 in conjunction with section 261.201 of the Family Code.

Gov't Code § 552.101. This section encompasses information protected by section 261.201 of the Family Code, which 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 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.

...

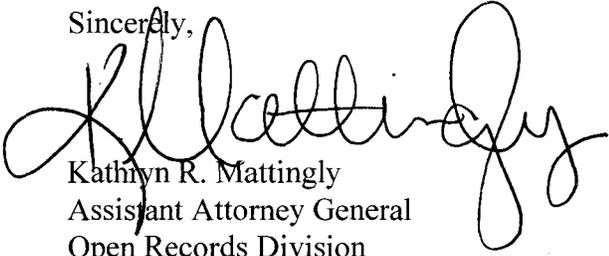
(k) Notwithstanding Subsection (a), an investigating agency, other than the [Texas Department of Family and Protective Services] or the Texas Youth Commission, on request, shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse 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.

Fam. Code § 261.201(a), (k). Upon review, we find the submitted information was used or developed in the department's investigation of alleged neglect of a child, and therefore, is within the scope of section 261.201 of the Family Code. *See id.* § 261.001(4) (defining "neglect" for purposes of chapter 261 of Family Code); *see also id.* § 101.003(a) (defining "child" for purposes of chapter 261 of Family Code). In this instance, however, the submitted report reflects the requestor is the parent of the child victim and is suspected of having committed the alleged neglect. Accordingly, the submitted information may not be provided to the requestor pursuant to section 261.201(k). *See id.* § 261.201(k) (parental exception to section 261.201(a) inapplicable where parent alleged to have committed abuse or neglect at issue). Thus, the submitted information is confidential under section 261.201 of the Family Code and must be withheld under section 552.101 of the Government Code.

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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Kathryn R. Mattingly  
Assistant Attorney General  
Open Records Division

KRM/bhf

Ref: ID# 534609

Enc. Submitted documents

c: Requestor  
(w/o enclosures)