



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 22, 2006

Mr. Jerry Bruce Cain  
Assistant City Attorney  
City of Laredo  
Office of the City Attorney  
P. O. Box 579  
Laredo, Texas 78042-0579

OR2006-02785

Dear Mr. Cain:

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# 244478.

The Laredo Police Department (the "department") received a request for four specified reports, numbers 05-37665, 05-14281, 05-2429, 04-42127, as well any other reports regarding the two specified cause numbers. You state the department will release report numbers 05-37665 and 05-14281.<sup>1</sup> You claim that the submitted information is excepted from disclosure under section 552.101, 552.108, 552.132, and 552.1325 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that you have only submitted report number 04-42127. *See* Open Records Decision Nos. 561 at 8-9 (1990) (governmental body must make a good faith effort to relate a request to the information it holds); *but see* Open Records Decision Nos. 563 at 8 (1990), 555 at 1-2 (1990) (the Act does not require a governmental body to answer factual questions, conduct legal research, or create new information in responding to a request). We therefore assume that, to the extent that it existed on the date the department received the request, any other responsive information has been released to the requestor. If not, then the

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<sup>1</sup>You provide documentation showing that the requestor previously requested report numbers 05-37665 and 05-14281 and that the department is awaiting the payment of charges for providing these reports before releasing them to the requestor. *See* Gov't Code §§ 552.261-.274 (regarding charges for providing public information).

department must release such information immediately, including report number 05-2429. *See Gov't Code §§ 552.301(a), .302.; see also Open Records Decision No. 664 (2000)* (noting that if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible under circumstances).

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. This exception encompasses information made confidential by statute. Section 261.201 of the Family Code provides in relevant part:

(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 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, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Family Code § 261.201(a). Upon review, we determine that the submitted information consists of files, reports, records, communications, or working papers used or developed in an investigation under chapter 261. *See Fam. Code § 261.001* (defining "abuse" for purposes of Family Code, ch. 261); *see also Fam. Code § 101.003(a)* (defining "child" for purposes of this section as person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes). Thus, this information is within the scope of section 261.201 of the Family Code. You have not indicated that the department has adopted a rule that governs the release of this type of information. Therefore, we assume that no such regulation exists. Given that assumption, we find that the submitted information, report number 04-42127, is confidential pursuant to section 261.201 of the Family Code and must be withheld under section 552.101. *See Open Records Decision No. 440 at 2 (1986)* (predecessor statute). As our ruling on this issue is dispositive, we need not address your submitted arguments against disclosure.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited

from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Ramsey A. Abarca  
Assistant Attorney General  
Open Records Division

RAA/krl

Ref: ID# 244478

Enc. Submitted documents

c: Ms. Roxana R. Trevino  
The Herring Law Firm  
505 Quarry Street  
Eagle Pass, Texas 78852  
(w/o enclosures)