



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 17, 2016

Mr. Josh Marcum  
Assistant City Attorney  
Office of the City Attorney  
The City of Fort Worth  
1000 Throckmorton Street, 3rd Floor  
Fort Worth, Texas 76102

OR2016-23250

Dear Mr. Marcum:

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# 631036 (PIR No. W054007).

The Fort Worth Police Department (the "department") received a request for information pertaining to 24 specified cases. You state you have released some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."<sup>1</sup> Gov't Code § 552.101. This section encompasses section 261.201(a) of the Family Code, which provides:

- (a) Except as provided by Section 261.203, the 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:

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

(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.

Fam. Code § 261.201(a). Upon review, we find the submitted information was used or developed in investigations of alleged or suspected child abuse. *See id.* §§ 101.003(a) (defining “child” for purposes of section 261.201 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), 261.001(1) (defining “abuse” for purposes of chapter 261 of the Family Code). Therefore, we determine the information at issue is generally confidential pursuant to section 261.201 of the Family Code. However, section 261.201(a) provides information encompassed by that section may be disclosed “for purposes consistent with [the Family Code] and applicable federal or state law[.]” *Id.* § 261.201(a). Section 264.509(b) of the Family Code constitutes applicable state law for purposes of section 261.201(a); thus, we address it.

The requestor states she is requesting the submitted reports on behalf of the Tarrant County Child Fatality Review Team. Subchapter F of chapter 264 of the Family Code relates to child fatality review and investigation. *See* Fam. Code §§ 264.501 *et seq.* The purpose and duties of a child fatality review team include “decreas[ing] the incidence of preventable child deaths by . . . developing an understanding of the causes and incidence of child deaths in the county or counties in which the review team is located[.]” *Id.* § 264.506(a)(3). A child fatality review team is required to “meet on a regular basis to review child fatality cases and recommend methods to improve coordination of services and investigations between agencies that are represented on the team[.]” *Id.* § 264.506(b)(2). Furthermore, section 264.508 provides “[t]he review team of the county in which the injury, illness, or event that was the cause of the death of the child occurred, as stated on the child’s death certificate, shall review the death.” *Id.* § 264.508(a). Section 264.509 provides in relevant part:

(a) A review team may request information and records regarding a deceased child as necessary to carry out the review team’s purpose and duties. Records and information that may be requested under this section include:

(1) medical, dental, and mental health care information; and

(2) information and records maintained by any state or local government agency, including:

(A) a birth certificate;

- (B) law enforcement investigative data;
- (C) medical examiner investigative data;
- (D) juvenile court records;
- (E) parole and probation information and records; and
- (F) child protective services information and records.

(b) On request of the presiding officer of a review team, the custodian of the relevant information and records relating to a deceased child shall provide those records to the review team at no cost to the review team.

*Id.* § 264.509(a), (b). The submitted information consists of law enforcement investigative data relating to investigations of the deaths of children. Section 264.509(a) provides that a child fatality review team shall have access to law enforcement investigative data as necessary to conduct its duties. Section 264.509(b) states that, upon request of the presiding officer of the review team, the custodian of the “relevant information and records” shall provide the records to the review team. The requestor is the presiding officer of the child fatality review team, accordingly; she has a right of access to the submitted information under section 264.509(b) of the Family Code. Furthermore, we find the release of the submitted information in this instance is consistent with the Family Code for the purposes of section 261.201(a) of the Family Code. *See id.* § 261.201(a). Although the department seeks to withhold the submitted information under section 552.108 of the Government Code, we note exceptions in the Act cannot impinge on a statutory right of access to information. *See* Open Records Decision Nos. 613 at 4 (1993); *see also* Open Records Decision No. 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Act). Consequently, the department may not withhold the submitted information from this requestor under section 552.108 of the Government Code. Accordingly, the department must release the submitted information to this requestor pursuant to section 264.509(b) of the Family Code.<sup>2</sup>

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.

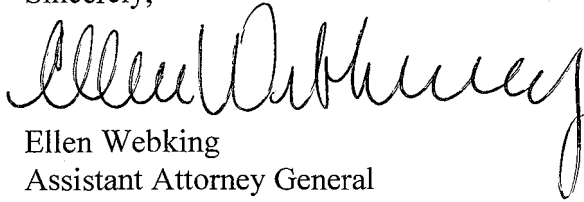
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <http://www.texasattorneygeneral.gov/open/>

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<sup>2</sup>We note the requestor has a special right of access to the information being released. Thus, the department must again seek a decision from this office if it receives another request for the same information from another requestor.

[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,

A handwritten signature in black ink, appearing to read "Ellen Webking". The signature is written in a cursive style with a long, sweeping tail on the final letter.

Ellen Webking  
Assistant Attorney General  
Open Records Division

EW/bw

Ref: ID# 631036

Enc. Submitted documents

c: Requestor  
(w/o enclosures)