ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 26, 2006

Ms. Linda L. Sjogren
Schotts & Sjogren LLP
P.O. Box 388
Dublin, Texas 76446-0388

OR2006-12694

Dear Ms. Sjogren:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 263011.

The City of San Angelo (the "city"), which you represent, received a request for a specific incident report. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered your claimed exception to disclosure and have 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" and encompasses information made confidential by statute. *See* Gov't Code § 552.101. Section 261.201(a) of the Family Code provides as follows:

> (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.

Fam. Code § 261.201(a). You assert that the entire report is confidential under section 261.201(a)(1) because it contains the identity of a person who made a report of alleged or suspected child abuse to the proper authorities. *See* Fam. Code § 261.001(1) (defining "abuse" for the purposes of chapter 261 of the Family Code). After reviewing the documents, we have marked the information that reveals the identity of the individual who made the child abuse report. The marked information is confidential under section 261.201(a)(1) and must be withheld under section 552.101. The remaining portions do not reveal the identity of the reporter nor are they otherwise confidential under section 261.201. Accordingly, the remaining portions of the report must be released to the requestor.

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,

June B. Harden
Assistant Attorney General
Open Records Division

JBH/sdk

Ref: ID# 263011

Enc: Submitted documents

c: Ms. Elisandra Lopez
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San Angelo, Texas 76901
(w/o enclosures)