



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 2, 2010

Mr. Robert E. Reyna  
Assistant City Attorney  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283-3966

OR2010-01620

Dear Mr. Reyna:

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# 369583 (COA File No. 2009-4719).

The City of San Antonio (the "city") received a request for a specified offense report. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note a portion of the submitted information, which we have marked, is not responsive to the instant request for information because it does not relate to the requested report. This ruling does not address the public availability of any information that is not responsive to the request and city is not required to release such information in response to this request.

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 protected by other statutes, such as 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 . . . 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:

(1) any personally identifiable information about a victim or witness under 18 years of age unless that victim or witness is:

(A) the child who is the subject of the report; or

(B) another child of the parent, managing conservator, or other legal representative requesting the information;

(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). You indicate the submitted incident report was used or developed in an investigation by the city's police department of alleged or suspected child abuse. *See id.* § 261.001(1) (definition of child abuse includes sexual assault under Penal Code section 22.011); *see also id.* § 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). Based on your representations and our review, we find the submitted report is generally confidential under section 261.201 of the Family Code.

However, the requestor may be a legal representative of the child victim listed in the report, and the requestor is not alleged to have committed the alleged or suspected abuse. As such, this requestor may have a right of access to the submitted report pursuant to 261.201(k). As we are unable to determine whether the requestor is a legal representative of the child victim, we will rule conditionally. If the requestor is not the legal representative of the child victim listed in the submitted report, the city must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. If the requestor is the legal representative of the child victim, pursuant to section 261.201(k), the city may not withhold the submitted report from the requestor under section 261.201(a). *Id.* § 261.201(k). However, section 261.201(l)(3) states the identity of the reporting party must be withheld. *Id.* § 261.201(l)(3). We have marked the information identifying the reporting party that must be withheld under section 261.201(l)(3) of the Family Code, if the requestor is the legal representative of the child victim.<sup>1</sup> The remaining information must be released.

In summary, if the requestor is not the legal representative of child victim listed in the report, the city must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. If the requestor is the legal representative of the child, the city must withhold the information we have marked under section 261.201(l)(3) of the Family Code. The remaining information must be released.

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](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

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<sup>1</sup>We note that if the requestor has a statutory right of access to the submitted information, the city must again seek a decision from this office if it receives another request for the same information from another requestor.

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 black ink, appearing to read 'Tamara Wilcox', written in a cursive style.

Tamara Wilcox  
Assistant Attorney General  
Open Records Division

TW/dls

Ref: ID# 369583

Enc. Submitted documents

c: Requestor  
(w/o enclosures)