



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 5, 2011

Mr. Charles H. Weir  
Assistant City Attorney  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283-3966

OR2011-17826

Dear Mr. Weir:

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# 437830 (COSA File No. W003266).

The City of San Antonio (the "city") received a request for information related to a specified incident. 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.

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. Section 552.101 encompasses information protected by other statutes, such as section 261.201 of the Family Code. Section 261.201 provides in part as follows:

(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:

(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 [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.

(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). We note the submitted information pertains to an investigation of aggravated sexual assault of a child. Thus, the submitted information consists of files, reports, records, communications, and working papers used or developed in the investigation. *See id.* § 261.001(1)(E) (definition of abuse includes aggravated sexual assault of a child under Penal Code section 21.021); *see also* Penal Code § 21.011(c) (defining “child” for purposes of Penal Code section 21.021 as person under 17 years of age). Accordingly, we find the submitted information is generally confidential under section 261.201. We note, however, the requestor is the mother of the child victim listed in the submitted information. Further, the requestor is not alleged to have committed the suspected

abuse. Thus, the city may not withhold the submitted information from this requestor on the basis of section 261.201(a). Fam. Code § 261.201(k). However, we note one of the persons in the submitted information is a child victim who is not the requestor's child. Section 261.201(l)(1) of the Family Code provides that the identifying information of a child victim other than the requestor's child is confidential. Thus, the city must withhold the portions of the submitted information, which we have marked, under section 552.101 of the Government Code in conjunction with section 261.201(l)(1). Additionally, section 261.201(l)(3) states the identity of the reporting party shall be withheld from disclosure. *Id.* § 261.201(l)(3). Accordingly, the city must withhold the reporting party's identity, which we have marked, under section 552.101 in conjunction with section 261.201(l)(3).

In summary, the city must withhold the identifying information of the child victim who is not the requestor's child, which we have marked, under section 552.101 of the Government Code in conjunction with section 261.201(l)(1) of the Family Code. The city must also withhold the reporting party's identity, which we have marked, under section 552.101 of the Government Code in conjunction with section 261.201(l)(3) of the Family Code. The remaining information must be released.<sup>1</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.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 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,



Damien Shores  
Assistant Attorney General  
Open Records Division

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<sup>1</sup>We note that the requestor has a right of access to the information being released, which is information that is confidential with respect to the general public. *See* Fam. Code § 261.201(k). Therefore, if the city receives another request for this information from an individual other than this requestor, the city must again seek a ruling from this office.

Ref: ID# 437830

Enc. Submitted documents

c: Requestor  
(w/o enclosures)