



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 30, 2015

Mr. James Kopp
Assistant City Attorney
Office of the City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR2015-13089

Dear Mr. Kopp:

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# 569356 (COSA File No. W075685).

The City of San Antonio (the "city") received a request for a specified offense report. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions 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." Gov't Code § 552.101. This section encompasses information protected by other statutes. Section 261.201 of the Family Code provides, in part, as follows:

(a) [T]he 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, 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). You assert the submitted information was used or developed in investigations of alleged or suspected child abuse or neglect under chapter 261 of the Family Code. *See id.* §§ 101.003(a) (defining “child” for purposes of section 261.201), 261.001(1), (4) (defining “abuse” and “neglect” for purposes of section 261.201). Upon review, we agree the submitted information is within the scope of section 261.201(a). Thus, the submitted information is generally confidential under section 261.201(a) of the Family Code. However, section 261.201(a) provides information encompassed by subsection (a) may be disclosed “for purposes consistent with [the Family Code] and applicable federal or state law.” *Id.* § 261.201(a).

We note the requestor in this instance is a representative of the Texas Department of Aging and Disability Services (“DADS”). Under chapter 48 of the Human Resources Code, DADS’s duties include the investigation of abuse, neglect, or exploitation in the provision of services to an elderly or disabled person. *See* Hum. Res. Code §§ 48.007, .151, .152. Section 48.154 of the Human Resources Code constitutes applicable state law in this instance and provides in pertinent part:

(a) The [Texas Department of Family and Protective Services (“DFPS”)] or state agency, as appropriate, shall have access to any records or documents, including client-identifying information and medical and psychological records, necessary to the performance of the [DFPS]’s or state agency’s duties under this chapter. The duties include but are not limited to the investigation of abuse, neglect, or exploitation or the provisions of services to an elderly or disabled person. A person or agency that has a record or document that the [DFPS] or state agency needs to perform its duties under this chapter shall, without unnecessary delay, make the record or document available to the [DFPS] or agency that requested the record or document.

Id. § 48.154. Thus, to the extent DADS is seeking the information to perform its duties under chapter 48, DADS has a right of access to the submitted information. However, as noted above, section 261.201(a) states any release must be “for purposes consistent with the Family Code.” *See* Fam. Code § 261.201(a). This office cannot determine whether the release of the submitted information is consistent with the Family Code. Therefore, if the city determines release of the submitted information is not consistent with the Family Code, then the city must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. *See* Attorney General Opinions DM-353 at 4 n,6 (1995) (finding interagency transfer of information prohibited where confidentiality statute enumerates specific entities to which release of information is authorized and where potential receiving governmental body is not among statute’s enumerated entities). JM-590 at 4-5 (1986); *see also* Fam. Code § 261.201 (b)-(g). (k) (listing entities authorized to receive information under section 261.201 of the Family Code). However, to the extent DADS is seeking the submitted information to

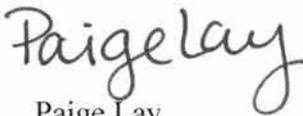
perform its duties under chapter 48 of the Human Resources and the city determines the release of the submitted information is consistent with the Family Code, then the city must release the submitted information to the requestor. Although you also raise section 552.108 of the Government Code for the submitted information, a specific statutory right of access overcomes the general exceptions in the Act, such as section 552.108. *See* Open Records Decision Nos. 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information), 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Act).

In summary, to the extent DADS is seeking the submitted information to perform its duties under chapter 48 of the Human Resources and the city determines release of the submitted information is consistent with the Family Code, then the city must release the submitted information to the requestor. Otherwise, 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.

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/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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/bhf

Ref: ID# 569356

Enc. Submitted documents

c: Requestor
(w/o enclosures)