



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 2, 2010

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

OR2010-04654

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# 374584 (COSA File No. 2010-5029).

The City of San Antonio (the "city") received a request for information pertaining to case number 06659985. You claim that the submitted 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 section 261.201 of the Family Code, which provides in 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, other than the [Texas 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). You state the submitted report pertains to an investigation of alleged child abuse. Upon review, we agree the submitted information is within the scope of section 261.201 of the Family Code. *See id.* § 261.001(1) (defining “abuse” for the purposes of chapter 261 of the Family Code); *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). However, we note, and you acknowledge, the requestor is the stepmother of the child victim listed in the submitted report. Although you assert that a stepmother does not have a special right of

access to the information at issue, we note that as the victim's stepmother, the requestor may also be her managing conservator or other legal representative. Further, this individual is not alleged to have committed the suspected abuse. Because it is not clear in this instance whether the requestor is the managing conservator or legal representative of the child victim for purposes of section 261.201(k), we must rule conditionally. If the requestor is not the managing conservator or legal representative of the child victim listed in the report, 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 of the Family Code. On the other hand, if the requestor is the victim's managing conservator or legal representative, the city may not use section 261.201(a) to withhold the information at issue from her. *Id.* § 261.201(k). Section 261.201(1)(3), however, states the identity of the reporting party must be withheld. *Id.* § 261.201(1)(3). Thus, if the requestor is the alleged victim's managing conservator or legal representative, the city must withhold the information we have marked under section 552.101 in conjunction with section 261.201(1)(3). Moreover, section 261.201(1)(2) states that any information excepted from required disclosure under the Act or other law must still be withheld from disclosure. *Id.* § 261.201(1)(2). We note that a portion of the remaining information may be subject to section 552.130 of the Government Code. Accordingly, we will address this exception.

Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle operator's or drivers license or permit or a motor vehicle title or registration issued by an agency of this state. *See Gov't Code* § 552.130(a)(1), (2). Thus, to the extent the requestor is the managing conservator or legal representative of the child victim listed in the submitted report, the city must withhold the information we have marked under section 552.130 of the Government Code.¹

In summary, if the requestor is not the managing conservator or legal representative of the child victim listed in the report, the submitted information must be withheld in its entirety under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. However, if the requestor is the managing conservator or legal representative of the child victim listed in the report, the city must withhold the reporting party's identifying information we have marked under section 261.201(1)(3) of the Family Code and the information we have marked under section 552.130 of the Government Code, but must release the remaining information to the requestor in accordance with section 261.201(k) of the Family Code.

¹ We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

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, 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,



James McGuire
Assistant Attorney General
Open Records Division

JM/cc

Ref: ID# 374584

Enc. Submitted documents

c: Requestor
(w/o enclosures)