



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 7, 2010

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

OR2010-15299

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# 396085 (COSA File No. 2010-6191).

The City of San Antonio (the "city") received a request for information pertaining to a specified case number. You claim 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. 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). The submitted information pertains to a report of alleged or suspected child abuse or neglect. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of Fam. Code ch. 261); *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). Therefore, this report falls within the scope of section 261.201(a).

However, the requestor may be a parent, managing conservator, or other legal representative of one of the child victims listed in the report, and the requestor is not alleged to have committed the alleged abuse or neglect. As such, this requestor may have a right of access to the submitted report pursuant to section 261.201(k). As we are unable to determine whether the requestor is a parent, managing conservator, or other legal representative of one of the child victims, we will rule conditionally.

If the requestor is not a parent, managing conservator, or other legal representative of one of the child victims listed in the submitted information, the city must withhold the submitted report under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. If the requestor is a parent, managing conservator, or legal representative of one of the child victims, 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). We note, however, section 261.201(l) provides that before a parent can copy and inspect a record of a child under section 261.201(k), any personally identifiable information about a victim or witness under 18 years of age who is not the parent's child and the identity of the party who made the report must be redacted. *Id.* § 261.201(l)(1), (3). Accordingly, to the extent the requestor is the parent, managing conservator, or other legal representative of one of the child victims, the submitted report must be provided to the requestor pursuant to section 261.201(k) of the Family Code.¹ However, the city must withhold any personally identifiable information of a child victim who is not the requestor's child and the identity of the reporting party pursuant to section 261.201(l)(1) and section 261.201(l)(3) 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.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,



Christina Alvarado
Assistant Attorney General
Open Records Division

CA/tp

¹We note the submitted information contains confidential information regarding one of the alleged child victims to which the requestor may have a right of access as the child's parent, managing conservator, or other legal representative. *See* Fam. Code § 261.201(k). If the city receives another request for this particular information from a different requestor, then the city should again seek a decision from this office. *See* Gov't Code §§ 552.301(a), .302.

Ref: ID# 396085

Enc. Submitted documents

c: Requestor
(w/o enclosures)