



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

April 5, 2011

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

OR2011-04690

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# 413554 (COSA File No: 2010-7445).

The San Antonio Police Department (the "department") received a request for case number 0499947-01. You claim that 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.

We note the request only seeks case number 0499947-01; accordingly the remaining incident report you have submitted is not responsive to the instant request. This ruling does not address the public availability of any information that is not responsive to the request, and the department is not required to release that information in response to the 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. Section 552.101 encompasses section 261.201 of the Family Code, which provides 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:

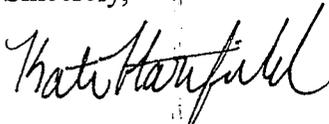
- (1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and
- (2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). The submitted information pertains to an investigation of endangering a child. Therefore, this information is within the scope of section 261.201 of the Family Code. *See* Fam. Code § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code); Penal Code § 22.041 (c). Accordingly, we agree the submitted information is confidential under section 261.201 of the Family Code. You do not indicate that the department has adopted a rule governing the release of this type of information. Accordingly, we assume none exists. Given that assumption, we conclude the department must withhold the responsive incident report in its entirety under section 552.101 of the Government Code. *See* Open Records Decision No. 440 at 2 (1986) (construing predecessor statute). As our ruling is dispositive, we need not address your remaining argument against disclosure.

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,



Kate Hartfield  
Assistant Attorney General  
Open Records Division

KH/em

Ref: ID# 413554

Enc. Submitted documents

c: Requestor  
(w/o enclosures)