



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 29, 2011

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

OR2011-09306

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# 422591 (COSA File No. W000552).

The City of San Antonio (the "city") received a request for a specified 9-1-1 recording. 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.

Initially, we note the request only seeks the 9-1-1 call recording. Accordingly, the submitted incident report is not responsive to the instant request for information. This decision does not address the public availability of non-responsive information, and the city 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 information protected by other statutes, such as section 261.201 of the Family Code. Section 261.201 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, 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:

...

- (3) the identity of the person who made the report.

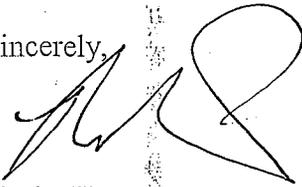
Fam. Code § 261.201(a), (k), (l)(3). Upon review, we agree the submitted information consists of a report of suspected or alleged child abuse. *See id.* § 261.001(1)(E) (defining “abuse” for purposes of chapter 261 of the Family Code as including indecency with a child under Penal Code section 21.11); *see also* Penal Code § 21.11(a) (defining “child” for purposes of indecency with a child as person under 17 years of age). Thus, we find this information falls within the scope of section 261.201 of the Family Code and is generally confidential under section 261.201(a) of the Family Code. However, this requestor represents the parents of the child victim who is the subject of the information at issue, and the parents are not alleged to have committed the suspected abuse. Therefore, the city may not use section 261.201(a) to withhold this information from this requestor. Fam. Code § 261.201(k). However, section 261.201(l)(3) states the identity of the reporting party must

be withheld. *Id.* § 261.201(1)(3). Thus, the city must withhold the reporting party's identity in the submitted 9-1-1 recording under section 552.101 of the Government Code in conjunction with section 261.201(1)(3) of the Government Code. The remaining information must be released.¹

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,



Nneka Kanu
Assistant Attorney General
Open Records Division

NK/em

Ref: ID# 422591

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

¹The requestor has a special right of access under section 261.201(k) of the Family Code to the information being released. If the city receives another request for this same information from an individual who does not have a right of access to the information, the city should request another ruling. *See* Gov't Code §§ 552.301, .302; Open Records Decision No. 673 (2001).