ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 3, 2012

Ms. Lysia H. Bowling
City Attorney
The City of San Angelo
P.O. Box 1751
San Angelo, Texas 76902

OR2012-12193

Dear Ms. Bowling:

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# 461461.

The San Angelo Police Department (the "department") received two requests from different requestors for two specified reports. 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 that other statutes make confidential. Section 261.201 of the Family Code provides, in relevant part, the following:

> (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.

*Id.* § 261.201(a), (k), (l)(3). You assert the submitted information is made confidential by section 261.201. Upon review, we agree report 2012-0006142 was used or developed by the department in an investigation of alleged child abuse. *See id.* § 261.001 (defining "abuse" for purposes of chapter 261 of the Family Code); *see also id.* § 101.003(a) (defining "child" for purposes of chapter 261). You have not indicated the department has adopted a rule that governs the release of this type of information. Therefore, we assume no such regulation exists. Given that assumption, we find report 2012-0006142 is confidential under section 261.201(a)(2) of the Family Code and must be withheld in its entirety from the second requestor under section 552.101 of the Government Code. We note, however, report 2012-0006280 pertains to an assault between two adults. Furthermore, you have not demonstrated how report 2012-0006280 was otherwise used or developed by the department in an investigation under chapter 261. *See id.* § 261.201(a)(2). Accordingly, we conclude report 2012-0006280 is not confidential in its entirety under section 261.201(a)(2) of the Family Code. However, we note a portion of report 2012-0006280, which we have marked, pertains to a report of alleged or suspected child abuse. *See id.* § 261.201(a)(1). Accordingly, the information we have marked is confidential under section 261.201(a)(1) of the Family Code and must be withheld from the second requestor under section 552.101 of the Government Code on that basis.

In this instance, the first requestor is a parent of the child victim listed in the submitted reports and is not alleged to have committed the alleged abuse. Therefore,

report 2012-0006142 and the information we have marked in report 2012-0006280 may not be withheld from the first requestor on the basis of section 261.201(a). *See id.* § 261.201(k). However, section 261.201(l)(3) of the Family Code states the identity of the reporting party shall be withheld from disclosure. *Id.* § 261.201(l)(3). Accordingly, the information we have marked must be withheld from the first requestor under section 552.101 of the Government Code in conjunction with section 261.201(l)(3) of the Family Code.

In summary, the department must withhold report 2012-0006142 in its entirety from the second requestor under section 552.101 of the Government Code in conjunction with section 261.201(a)(2) of the Family Code. The department must withhold the information we have marked in report 2012-0006280 from the second requestor under section 552.101 of the Government Code in conjunction with section 261.201(a)(1) of the Family Code. The department must release the remaining information in report 2012-0006280 to the second requestor. With the exception of the information we have marked under 261.201(l)(3) of the Family Code, which the department must withhold under section 552.101 of the Government Code, the department must release the submitted reports to the first requestor.

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,

Sean Nottingham
Assistant Attorney General
Open Records Division

SN/bhf

Ref: ID# 461461

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)