



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 10, 2012

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

OR2012-14270

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# 464757 (COSA File No. W008329).

The City of San Antonio (the "city") received a request for a specified case number. 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. 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:

...

(3) the identify of the person who made the report.

Fam. Code § 261.201(a), (k), (l)(3). Upon review, we find the submitted information was used or developed in an investigation by the city's police department of alleged or suspected child abuse under chapter 261. *See id.* § 261.001(1)(E) (definition of "abuse" for purposes of chapter 261 of the Family Code includes aggravated sexual assault under Penal Code section 22.021); *see also* Penal Code § 22.011(c)(1) (defining "child" for purposes of sections 22.021 as "a person younger than 17 years of age"). Accordingly, we find the submitted information is within the scope of section 261.201 of the Family Code.

We note the requestor has the same name as a parent of the listed child victim and as the child who is the subject of the report. As such, this requestor may have a right of access to the submitted information pursuant to section 261.201(k). Because we are unable to determine whether the requestor is a parent of the listed child victim or the child who is the subject of the report, we rule conditionally.

Although the parent of the child victim listed in the submitted information is not alleged to have committed the abuse at issue, the child victim is now at least eighteen-years-old. Thus, if the requestor is the parent of the child victim, we find the requestor no longer has a right of access to her adult child's records under section 261.201(k), and 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.

If the requestor is the victim of the alleged child abuse, she is now at least eighteen years of age, and the city may not withhold the submitted information from this requestor on the basis of section 261.201(a). Fam. Code § 261.201(k). Section 261.201(l)(3), however, states the identity of the reporting party must be withheld. *Id.* § 261.201(l)(3). Therefore, if the requestor is the child who is the subject of the report, the city must withhold the identifying information of the reporting party, which we have marked, under section 552.101 of the Government Code in conjunction with section 261.201(l)(3) of the Family Code, and the remaining information must be released to this requestor.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,



Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/ag

Ref: ID# 464757

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹The requestor may have a special right of access under section 261.201(k) of the Family Code to the information being released. *See* Fam. Code § 261.201(k). Accordingly, if the city receives another request for this information from a different requestor, then the city should again seek a decision from this office. *See* Gov't Code §§ 552.301, .302; Open Records Decision No. 673 (2001).