



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 23, 2015

Mr. James Kopp
Assistant City Attorney
Office of the City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR2015-22323

Dear Mr. Kopp:

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# 584268 (COSA File No. W082602).

The City of San Antonio (the "city") received a request for a specified police report. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ 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 section encompasses information protected by other statutes, such as section 261.201 of the Family Code, which provides, in part, as follows:

(a) [T]he following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for

¹We note the city did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b). Nonetheless, because section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

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 Juvenile Justice Department, 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.

Fam. Code § 261.201(a); Act of May 29, 2015, 84th Leg., R.S., ch. 734, § 82, 2015 Tex. Sess. Law Serv. 2218, 2243-2244 (Vernon) (to be codified as an amendment to Fam. Code § 261.201(k)). We find the submitted information consists of an investigation of alleged or suspected child abuse by the city's police department. *See* Act of May 21, 2015, 84th Leg., R.S., ch. 432, § 1, 2015 Tex. Sess. Law Serv. 1686, 1686-87 (Vernon) (to be codified as an amendment to Fam. Code § 261.001(4)) (defining "neglect" for purposes of chapter 261 of the Family Code); Act of June 1, 2015, 84th Leg., R.S., ch. 1273, § 4, 2015 Tex. Sess. Law Serv. 4310, 4312 (Vernon) (to be codified as an amendment to Fam. Code § 261.001(1)) (defining "abuse" for purposes of chapter 261 of the Family Code); *see also* Fam. Code § 101.003(a) (defining "child" for purposes of chapter 261 of Family Code). Accordingly, we find this information is subject to chapter 261 of the Family Code. We note the requestor may be an authorized representative of the child's parent and the child's parent is not alleged to have committed the suspected abuse or neglect. As such, this requestor may have a right of access to the information at issue pursuant to section 261.201(k). Act of May 29, 2015, 84th Leg., R.S., ch. 734, § 82, 2015 Tex. Sess. Law Serv. 2218, 2243-2244 (Vernon) (to be codified as an amendment to Fam. Code § 261.201(k)). Thus, if the requestor is not the authorized representative of the child victim's parent then the city must withhold the submitted information in its entirety under section 552.101 in conjunction with section 261.201 of the Family Code. If the requestor is

the authorized representative of the child victim's parent the city may not withhold this information from the requestor under section 261.201(a) of the Family Code. *Id.* In that case, the city must release the submitted information to this 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tim Neal', with a stylized, cursive script.

Tim Neal
Assistant Attorney General
Open Records Division

TN/bhf

Ref: ID# 584268

Enc. Submitted documents

c: Requestor
(w/o enclosures)