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ATTORNEY GENERAL OF TEXAS

October 29, 2019

Mr. L. Brian Narvaez
Counsel for the City of McKinney
Brown & Hoffmeister, L. L. P.
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2019-30466

Dear Mr. Narvaez:

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# 793603 (ORR# P012295-080719).

The City of McKinney (the "city"), which you represent, received a request for information pertaining to a specified address. The city states it has released some of the requested information, but claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception 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 section 261.201(a) of the Family Code, which provides as follows:

[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.

Fam. Code § 261.201(a). The city asserts the submitted information was used or developed in an investigation by the city's police department (the "department") under chapter 261. *See id.* §§ 101.003(a) (defining "child" for purposes of section 261.201), 261.001(1) (defining "abuse" for purposes of section 261.201). Upon review, we find the information is within the scope of section 261.201 of the Family Code. The city does not indicate the department has adopted a rule that governs the release of this type of information. Therefore, we assume no such rule exists. Given that assumption, the submitted information is generally confidential under section 261.201(a) of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute).

However, section 261.201 provides information encompassed by subsection (a) may be disclosed "for purposes consistent with [the Family Code] and applicable federal or state law." Fam. Code § 261.201(a). Subchapter E of chapter 264 of the Family Code concerns the establishment and duties of children's advocacy centers. *See id.* §§ 264.401-.411. Section 264.405 of the Family Code directs children's advocacy centers to provide services for victims of child abuse and their families. *See id.* § 264.405. Furthermore, section 264.408(c) of the Family Code provides, in part, a law enforcement agency "may share with a [children's advocacy] center information that is confidential under Section 261.201 as needed to provide services" under chapter 264 of the Family Code. *Id.* § 264.408(c).

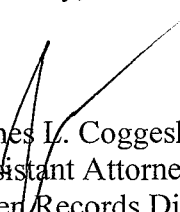
The requestor states he is a representative of a Court Appointed Special Advocate ("CASA"). However, the requestor does not state whether the requested report is sought for the purposes of providing services under chapter 264 of the Family Code. Therefore, we must rule conditionally. If the city determines the information at issue is not needed to provide services under chapter 264, then the city must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. If the city determines the information at issue is needed to provide services under chapter 264 of the Family Code, then the city generally has the discretion to release the information at issue to this requestor pursuant to section 264.408(c). We note information shared with or provided to CASA under section 264.408(c) retains its confidentiality under section 261.201(a) of the Family Code. *See id.*

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open

Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/mo

Ref: ID# 793603

Enc. Submitted documents

c: Requestor
(w/o enclosures)