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ATTORNEY GENERAL OF TEXAS

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Ms. Cynthia Trevino
Counsel for the City of Santa Fe
Denton Navarro Rocha Bernal & Zech, P.C.
2517 North Main Avenue
San Antonio, Texas 78212-4685

OR2022-23809

Dear Ms. Trevino:

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# 962732.

The Santa Fe Police Department (the "department"), which you represent, received six requests from the same requestor for information pertaining to specified cases. The department states it is withholding or releasing some of the requested information in accordance with Open Records Letter No. 2022-12739 (2022). *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001). The department also indicates it will withhold information pursuant to section 552.130(c) of the Government Code.¹ The department claims the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the claimed exceptions 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 of the Family Code, which provides, in relevant part, as follows:

(a) [T]he following information is confidential, is not subject to public release under [the Act] and may be disclosed only for purposes consistent

¹ Section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

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.

(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:

...

(2) any information that is excepted from required disclosure under [the Act], or other law[.]

Fam. Code § 261.201(a), (k), (l)(2). Upon review, we find pages 1-2, 5-10, 16-21, 24-29, and 35-43 were used or developed in investigations of alleged or suspected child abuse under chapter 261 of the Family Code. *See id.* §§ 101.003(a) (defining “child” for purposes of section 261.201), 261.001(1), (4) (defining “abuse” and “neglect” for purposes of section 261.201). Thus, this information is within the scope of section 261.201(a). The department does not indicate it has adopted a rule that governs the release of this type of information. Therefore, we assume no such rule exists. Accordingly, the department must withhold pages 5-10, 16-21, and 24-29 of the submitted documents under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.² *See Open Records Decision No. 440 at 2 (1986) (predecessor statute).* The requestor is a parent of the child victims at issue in the remaining information subject to section 261.201 and this individual is not alleged to have committed the suspected abuse or neglect. Accordingly,

² As our ruling is dispositive, we do not address the other arguments of the department to withhold this information.

the department may not withhold the remaining information from the requestor on the basis of section 261.201(a). *See id.* § 261.201(k). However, section 261.201(l)(2) provides any information that is excepted from required disclosure under the Act or other law must still be withheld from disclosure. *Id.* § 261.201(l)(2). Therefore, pursuant to section 261.201(l)(2) we must determine whether the remaining information is otherwise excepted from release under the Act.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the information at issue relates to a criminal investigation that has concluded in a final result other than conviction or deferred adjudication. *See id.* §§ 552.108(a)(2), .301(e)(1)(A). The department indicates the remaining information it has marked in red pertains to cases that concluded in results other than conviction or deferred adjudication. Thus, the department may withhold the remaining information it has marked in red under section 552.108(a)(2) of the Government Code.

In summary, the department must withhold pages 5-10, 16-21, and 24-29 of the submitted documents under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. The department may withhold the remaining information it has marked in red under section 552.108(a)(2) of the Government Code. The department must release the remaining information.³

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/jm

Ref: ID# 962732

c: Requestor

³ Because the requestor has a special right of access to some of the information being released, the department must again seek a decision from this office if it receives a request for the same information from another requestor.