



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 17, 2017

Ms. Michelle Buendia
Assistant City Attorney
Criminal Law and Police Section
City of Dallas
1400 South Lamar Street
Dallas, Texas 75215

OR2017-01087

Dear Ms. Buendia:

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# 645284 (ORR 2016-25784, 2016-25782).

The Dallas Police Department (the "department") received a request for information pertaining to a specified internal affairs investigation, and a second request from a different requestor for information pertaining to a named police officer. The department claims the requested information is excepted from disclosure under sections 552.101, 552.117, and 552.130 of the Government Code.¹ We have considered the claimed exceptions and reviewed the submitted sample of information.

Initially, we note the department submitted an incident report and a related e-mail, but no other information responsive to the request. Thus, we find the submitted information is not representative of the other types of information to which the requestor seeks access. Please

¹Although the department raises section 552.1175 of the Government Code for portions of the submitted information, we note section 552.117 of the Government Code is the proper exception for information the department holds in an employment capacity. We also note the department did not comply with the requirements of section 552.301 of the Government Code. *See* Gov't Code § 552.301(b), (e). Nevertheless, because sections 552.101, 552.117, and 552.130 of the Government Code make information confidential, they can provide compelling reasons to overcome the presumption of openness caused by a failure to comply with section 552.301. *See id.* §§ 552.007, .302. Thus, we will consider the applicability of these sections to the information at issue.

be advised, this open records letter ruling applies only to the type of information the department has submitted for our review. This ruling does not authorize the department to withhold any information that is substantially different from the type of information the department submitted to this office. *See* Gov't Code § 552.302. Accordingly, to the extent any information responsive to the remainder of the request for information existed in the possession of the department when it received the request, we assume the department has released that information to the requestor. *See* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible). If the department has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302.

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 department asserts the requested information was used or developed in an investigation under chapter 261. *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). Upon review, we find some of the information is within the scope of section 261.201 of the Family Code. Therefore, the department must withhold this information, which we have marked, 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). However, the department has not established the remaining information was used or developed in an investigation of alleged or suspected child abuse or neglect under chapter 261 of the Family Code. Therefore, the remaining

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

information is not confidential under section 261.201(a) of the Family Code and the department may not withhold it under section 552.101 on that ground.


Section 552.117(a)(2) of the Government Code excepts from public disclosure the home addresses, home telephone numbers, emergency contact information, and social security number of a peace officer, as well as information that reveals whether the peace officer has family members, regardless of whether the peace officer complies with section 552.024 or section 552.1175 of the Government Code.³ Gov't Code § 552.117(a)(2). The department must withhold the information we have marked under section 552.117(a)(2) of the Government Code.⁴

To conclude, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. The department must also withhold the information we have marked under section 552.117(a)(2) of the Government Code. The department must release the remaining information.

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/bw

³"Peace officer" is defined by article 2.12 of the Texas Code of Criminal Procedure.

⁴As our ruling is dispositive, we do not address the other argument of the department to withhold this information.

Ref: ID# 645284

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)