



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 7, 2017

Mr. Nicholas Toulet
Assistant City Attorney
City of Midland
P.O. Box 1152
Midland, Texas 79702

OR2017-17703

Dear Mr. Toulet:

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# 669492 (ORR No. M020833-051717).

The City of Midland (the "city") received a request for information pertaining to a named individual, including information regarding specified dates and thirteen specified reports. You state the city is releasing some information. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.117 of the Government Code. We have considered the exceptions 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 made confidential by other statutes, such as section 261.201(a) 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.

Fam. Code § 261.201(a). Upon review, we find incident report 140408010 was used or developed in an investigation 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). Accordingly, we find incident report 140408010 is within the scope of section 261.201(a). The city does not indicate it has adopted a rule that governs the release of this type of information. Accordingly, we assume no such rule exists. Given that assumption, the city must withhold this report under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. However, we find the city has failed to demonstrate how the remaining information in Exhibit B was used or developed in an investigation of alleged or suspected child abuse or neglect under chapter 261. Accordingly, the city may not withhold the remaining information in Exhibit B under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

Section 552.117(a)(1) of the Government Code excepts from disclosure the home address and telephone number, emergency contact information, social security number, and family member information of a current or former employee or official of a governmental body who requests this information be kept confidential under section 552.024 of the Government Code. *See Gov’t Code* § 552.117(a)(1). We note, however, section 552.117 applies only to information held by a governmental body in an employment context. Thus, information that is not held in an employment context may not be withheld under section 552.117(a)(1). We find the information at issue is held by the city’s police department in a law enforcement context. Consequently, the city may not withhold any portion of the remaining information under section 552.117(a)(1) of the Government Code.

In summary, the city must withhold report number 140408010 under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. The remaining information must be released.

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,


Britni Ramirez
Assistant Attorney General
Open Records Division

BR/sb

Ref: ID# 669492

Enc. Submitted documents

c: Requestor
(w/o enclosures)