



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 11, 2020

Ms. Heather Silver
Assistant City Attorney
City of Dallas
1400 South Lamar Street, 6th Floor, 6W
Dallas, Texas 75215

OR2020-07655

Dear Ms. Silver:

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# 816546 (ORR# D033516-111319).

The Dallas Police Department (the "department") received a request for all information involving the requestor, her minor children, and two specified addresses. 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 representative sample of information.²

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 section 261.201 of the Family Code, which provides, in relevant part, as follows:

¹ We note you did not comply with section 552.301 of the Government Code in requesting a ruling from this office. *See* Gov't Code § 552.301(b), (e). Nonetheless, because section 552.101 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.

² We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

(a) [T]he following information is confidential, is not subject to public release under Chapter 552, Government Code, 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.

...

(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:

...

(3) the identity of the person who made the report.

Fam. Code § 261.201(a), (k), (l)(3). The submitted information was used or developed in investigations of alleged or suspected child abuse or neglect by the department. *See id.* §§ 101.003(a) (defining “child” for purposes of this section as person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes), 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code). Accordingly, we find this information is subject to chapter 261 of the Family Code. We note the requestor is a parent of the minor victims in the submitted information. However, the requestor is accused of committing the alleged abuse or neglect in incident report numbers 226439-2019 and 222665-2019. Thus, the requestor does not have a right of access to incident report numbers 226439-2019 and 222665-2019 under section 261.201(k). *Id.* § 261.201(k). Accordingly, the department must withhold incident report numbers 226439-2019 and 222665-2019 in their entireties under section 552.101 of the Government Code in conjunction with section 261.201 of the

Family Code. However, the requestor is not accused of committing the alleged or suspected child abuse or neglect in incident report number 226244-2019. Thus, the requestor has a right of access to incident report number 226244-2019 under section 261.201(k), and incident report number 226244-2019 may not be withheld from this requestor under section 552.101 of the Government Code on the basis of section 261.201(a). *See id.* However, section 261.201(l)(3) states the identity of the reporting party shall be withheld from disclosure. *Id.* § 261.201(l)(3). Accordingly, the department must withhold the identifying information of the reporting party in incident report number 226244-2019, which we have marked, under section 552.101 of the Government Code in conjunction with section 261.201(l)(3) of the Family Code.

In summary, the department must: (1) withhold incident report numbers 226439-2019 and 222665-2019 in their entireties under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code; (2) withhold the identifying information of the reporting party in incident report number 226244-2019, which we have marked, under section 552.101 of the Government Code in conjunction with section 261.201(l)(3) of the Family Code; and (3) release the remaining information to this requestor.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,



Tim Neal
Assistant Attorney General
Open Records Division

TN/rm

³ We note the requestor has a right of access to the information being released in this instance. *See* Fam. Code § 261.201(k); Gov't Code § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Accordingly, if the department receives another request for this same information from a different requestor, the department must again seek a ruling from this office.

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Enc. Submitted documents

c: Requestor
(w/o enclosures)