



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 2, 2022

Ms. Sylvia McClellan
Assistant City Attorney
City of Dallas
1400 Botham Jean Boulevard
Dallas, Texas 75215

OR2022-22696

Dear Ms. McClellan:

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# 963558 (Reference No. D008464).

The Dallas Police Department (the "department") received a request for a request for information pertaining to two incidents involving the requestor's client. 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 information.

Initially, we note the department has submitted information related to only one of the specified incidents. Although the department states it has submitted a representative sample of the requested information, we find the submitted information is not representative of all of the types of information at issue. Please be advised, this open records letter ruling applies only to the types of information you have submitted for our review. This ruling does not authorize the department to withhold any information that is substantially different from the types of information the department submitted to this office. *See* Gov't Code § 552.302 (where request for attorney general decision does not comply with requirements of Gov't

¹ We note, and you acknowledge, the department failed to comply with the procedural requirements of section 552.301 of the Government Code in requesting a decision from this office. *See* Gov't Code § 552.301(b), (e). Nonetheless, section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness caused by a failure to comply with section 552.301. *See id.* §§ 552.007, .302, .352. Thus, we will consider the applicability of this exception to the submitted information, notwithstanding the department's violation of section 552.301 in requesting this decision.

Code § 552.301, information at issue is presumed to be public). Accordingly, to the extent any such information existed on the date the department received the request, we assume the department has released it. If the department has not released any such information, it must do so at this time. *See id.* §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

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. Section 552.101 encompasses information protected by 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 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 the submitted information was used or developed in an investigation of alleged or suspected child abuse or neglect conducted 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. The department does not indicate it has adopted a rule that governs the release of this type of information and therefore, we assume no such regulation exists. Given that assumption, we conclude the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute).

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,

Kimbell Kesling
Assistant Attorney General
Open Records Division

KK/be

Ref: ID# 963558

Enc. Submitted documents

c: Requestor
(w/o enclosures)