



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 29, 2011

Ms. Sylvia McClellan
Assistant City Attorney
City of Dallas
Criminal Law and Police Division
1400 South Lamar
Dallas, Texas 75215

OR2011-09257

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# 422716 (DPD Request No. 2011-3365).

The Dallas Police Department (the "department") received a request for all 9-1-1 calls and incident reports for a specified time period that pertain to a named individual's complaints against another named individual. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample information.¹

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, 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

¹We 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.

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). You represent the marked records were used or developed in the department's investigation of the alleged sexual assault of a twelve-year-old child. *See id.* §§ 261.001(1)(E) (definition of "abuse" for purposes of Family Code chapter 261 includes aggravated sexual assault of child under Penal Code section 21.021), 101.003(a) (defining "child" as a person under eighteen years of age who is not and has not been married and who has not had the disabilities of minority removed for general purposes). Accordingly, we find these records are subject to section 261.201. You have not indicated the department has adopted a rule that governs the release of these records in this instance; therefore, we assume that no such regulation exists. Given that assumption, we conclude the records you marked under section 261.201 are confidential under that section. *See Open Records Decision No. 440 at 2 (1986) (predecessor statute).* Accordingly, this information must be withheld under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.²

Section 552.101 also encompasses Chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communications districts. Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000 and makes confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier. *See Open Records Decision No. 649 (1996).* You represent the City of Dallas is within an emergency communication district that is subject to section 772.318. You assert the marked telephone numbers and address contained in the remaining information are protected by section 772.318 of the Health and Safety Code. Accordingly, the department must withhold this information under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. As you raise no other exceptions to disclosure, the remaining information must be released.

In summary, the department must withhold the records marked under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. The marked

²As our ruling for this information is dispositive, we need not address your argument under section 552.108 of the Government Code.

telephone numbers and address contained in the remaining information must be withheld under section 552.101 in conjunction with section 772.318 of the Health and Safety 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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/eb

Ref: ID# 422716

Enc. Submitted documents

c: Requestor
(w/o enclosures)