



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 27, 2016

Ms. Stephanie H. Harris
City Attorney
City of Paris Texas
P. O. Box 9037
Paris, Texas 75461-9037

OR2016-24055

Dear Ms. Harris:

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# 632008.

The Paris Police Department (the "department") received a request for information related to a specific motor vehicle accident. You state the department has released some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we must address the department's procedural obligations under section 552.301 of the Government Code when requesting a decision from this office under the Act. Pursuant to section 552.301(b), within ten business days after receiving a written request the governmental body must request a ruling from this office and state the exceptions to disclosure that apply. Gov't Code § 552.301(b). You state the department received the request for information on August 5, 2016. You do not inform us the department was closed for business on any of the days at issue. Accordingly, the department's ten-business-day deadline was August 19, 2016. However, you submitted the information required under section 552.301(b) in an envelope bearing a postmark of August 22, 2016. *See id.* § 552.308(a)(1) (describing rules for calculating submission dates of documents sent via first class United States mail, common or contract carrier, or interagency mail). Consequently, we find the department failed to comply with section 552.301 of the Government Code.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with section 552.301 results in the legal presumption the requested information is public and must be released unless a compelling reason exists to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); *see also* Open Records Decision No. 630 (1994). Generally, a compelling reason to withhold information exists where some other source of law makes the information confidential or where third-party interests are at stake. Open Records Decision No. 150 at 2 (1977). The department claims sections 552.101 and 552.130 of the Government Code are applicable to some of the submitted information. These sections make information confidential, and therefore, can provide compelling reasons to overcome the presumption of openness. Therefore, we will address the applicability of these sections to 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. Section 552.101 encompasses information protected by other statutes, such as section 261.201 of the Family Code, which provides, in relevant part:

(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.

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. *See id.* §§ 101.003(a) (defining “child” for purposes of chapter 261 of the Family Code), 261.001(1) (defining “abuse” for purposes of chapter 261 of the Family Code). Accordingly, the information is within the scope of section 261.201 of the Family Code. You do not indicate the department has adopted a rule that governs the release of this type of information. Therefore, we assume no such regulation exists. Given that assumption, the submitted information is confidential pursuant to section 261.201(a) of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute). The department must withhold the submitted information in

its entirety under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.¹

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,



Kaelan A. Henze
Assistant Attorney General
Open Records Division

KAH/eb

Ref: ID# 632008

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹As our ruling is dispositive, we do not address your other arguments to withhold this information.