



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 5, 2016

Ms. Elizabeth Walker
City Secretary
City of Weslaco
255 South Kansas Avenue
Weslaco, Texas 78596-6285

OR2016-17681

Dear Ms. Walker:

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# 623354.

The City of Weslaco (the "city") received a request for the probable cause affidavit and criminal complaint from a specified case involving a named individual. You claim the submitted information is excepted from disclosure under sections 552.101, 552.1325, and 552.148 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the requestor states the request is for "Municipal Court records." The submitted information may not be subject to the Act if it is maintained solely by the municipal court and thus, consists of records of the judiciary. Section 552.003(b) of the Government Code excludes the judiciary from the Act. Therefore, the Act neither authorizes information held by the judiciary to be withheld nor requires that it be disclosed. *See Open Records Decision No. 25 (1974)*. Accordingly, to the extent the submitted information is

¹Although you also raise sections 552.023 and 552.307 of the Government Code, we note these sections are not exceptions to public disclosure under the Act. *See Gov't Code §§ 552.023 (person has right of access to information about self that is protected by laws protecting person's privacy interest.), .307 (explaining the requirement of seeking an attorney general decision when a governmental body determines that information may be subject to a special right of access under section 552.023).*

maintained solely by the municipal court, it is not subject to release under the Act and need not be released in response to the present request.² *See* Gov't Code § 552.0035 (access to information maintained by or for judiciary is governed by rules adopted by supreme court); Tex. R. Jud. Admin. 12 (public access to judicial records). However, to the extent the submitted information or copies of the submitted information are also maintained by the city, the submitted information is subject to the Act, and we will consider whether it is excepted from disclosure.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 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). The submitted information consists of information 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. Because you do not indicate the city has adopted a rule governing the release of this type of information, 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). Accordingly, the city must withhold the submitted information in its

²We note records of the judiciary may be public under other sources of law. *See* Gov't Code § 29.007(d)(4) (complaints filed with municipal court clerk); *id.* § 29.007(f) (municipal court clerks shall perform duties prescribed by law for county court clerk); Loc. Gov't Code § 191.006 (records belonging to office of county clerk shall be open to public unless access restricted by law or court order); *see also* *Star-Telegram, Inc. v. Walker*, 834 S.W.2d 54, 57 (Tex. 1992) (documents filed with courts are generally considered public and must be released); Attorney General Opinions DM-166 (1992) at 2-3 (public has general right to inspect and copy judicial records), H-826 (1976); Open Records Decision No. 25 (1974).

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



Brian E. Berger
Assistant Attorney General
Open Records Division

BB/akg

Ref: ID# 623354

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³As our ruling is dispositive, we do not address your other arguments to withhold this information.