



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 16, 2017

Ms. Leticia McGowan
Assistant General Counsel
Dallas Independent School District
3700 Ross Avenue
Dallas, Texas 75204

OR2017-05443

Dear Ms. McGowan:

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# 650391 (Rev. ORR# 15857).

The Dallas Independent School District (the "district") received a request for statements of named witnesses and the video recording of a specified incident. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.135 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note, some of the requested information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2016-23301(2016). In that ruling, we determined the district must withhold the identifying information of the juvenile victim in the video recording under section 552.101 of the Government Code in conjunction with common-law privacy. So long as there has been no change in the law, facts, or circumstances on which the previously ruling was based, we conclude the district must rely on Open Records Letter No. 2016-23301 as a previous determination and withhold the identical information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addresses in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that

information is or is not excepted from disclosure). We will consider your arguments against its disclosure of the remaining 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. This section encompasses information protected by other statutes. Section 261.201 of the Family Code provides, in relevant part, as follows:

(a) The 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). You claim the submitted information is confidential under section 261.201. We note the district is not an agency authorized to conduct an investigation under chapter 261 of the Family Code. *See id.* § 261.103 (listing agencies that may conduct child abuse investigations). You state the remaining information was obtained from the Dallas Police Department (“DPD”), the Department of Family and Protective Services (“DFPS”), or the district’s police department (the “department”). You also state the district has on staff an employee who is shared with DFPS to receive and investigate child abuse claims. However, we find the remaining information was not obtained from the Dallas Police Department, DFPS, or the department, but instead relates to an administrative investigation by the district. Thus, we find the district has failed to demonstrate the remaining information was used or developed in an investigation of alleged or suspected child abuse, or consists of a report of alleged or suspected abuse or neglect under chapter 261 of the Family Code. Accordingly, the remaining information is not confidential under section 261.201 of the Family Code, and the district may not withhold it under section 552.101 of the Government Code on that basis.

Section 552.101 of the Government Code also encompasses section 261.101 of the Family Code, which provides the identity of an individual making a report under chapter 261 is confidential. *See id.* § 261.101(d). As noted above, the district is not an agency authorized to conduct a chapter 261 investigation. *See id.* § 261.103 (listing agencies that may conduct child abuse investigations). Upon review, we find none of the remaining information contains the identifying information of an individual who made a report under chapter 261

of the Family Code. Thus, the district may not withhold any of the remaining information under section 552.101 in conjunction with section 261.101(d).

Section 552.135 of the Government Code provides, in part, the following:

(a) "Informer" means a student or former student or an employee or former employee of a school district who has furnished a report of another person's or persons' possible violation of criminal, civil, or regulatory law to the school district or the proper regulatory enforcement authority.

(b) An informer's name or information that would substantially reveal the identity of an informer is excepted from [required public disclosure].

(c) Subsection (b) does not apply:

(1) if the informer is a student or former student, and the student or former student, or the legal guardian, or spouse of the student or former student consents to disclosure of the student's or former student's name; or

(2) if the informer is an employee or former employee who consents to disclosure of the employee's or former employee's name; or

(3) if the informer planned, initiated, or participated in the possible violation.

Gov't Code § 552.135(a)-(c). Because the legislature limited the protection of section 552.135 to the identity of a person who reports a possible violation of "law," a school district that seeks to withhold information under that exception must clearly identify to this office the specific civil, criminal, or regulatory law that is alleged to have been violated. *See id.* § 552.301(e)(1)(A). We note section 552.135 protects an informer's identity, but it does not generally encompass protection for witnesses or witness statements. You state the remaining information identifies students and employees who reported alleged violations of criminal and civil laws. Based on your representation and our review, we conclude the district has failed to demonstrate any of the remaining information reveals the identity of an informer for the purposes of section 552.135 of the Government Code. Therefore, the district may not withhold any of the remaining information on that ground.

In summary, for the requested information that is identical to the information previously requested and ruled upon by this office, we conclude the district must continue to rely on Open Records Letter No. 2016-23301 as a previous determination and withhold the information in accordance with that ruling. The district must release the remaining information.

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,

A handwritten signature in black ink, appearing to read "Emily Kunst", with a stylized flourish at the end.

Emily Kunst
Assistant Attorney General
Open Records Division

EK/nmd

Ref: ID# 650391

Enc. Submitted documents

c: Requestor
(w/o enclosures)