



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 30, 2017

Ms. Amy York  
Records Coordinator  
Cherokee County  
272 Underwood Street  
Rusk, Texas 75785

OR2017-14761

Dear Ms. York:

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# 664340.

The Cherokee County Sheriff's Office (the "sheriff's office") received a request for a specified incident report. You claim portions of the submitted information are excepted from disclosure under section 552.101, 552.108, 552.130, and 552.147 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed 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. This section encompasses information made confidential by other statutes, such as section 261.201 of the Family Code. Section 261.201 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:

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<sup>1</sup>Although you do not raise sections 552.101, 552.130, and 552.147 of the Government Code in your brief, we understand you to raise these exceptions based on your markings in the documents.

(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.

...

(k) Notwithstanding Subsection (a), an investigating agency, other than the [Texas Department of Family and Protective Services] or the Texas Juvenile Justice Department, on request, shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect, or to the child if the child is at least 18 years of age, information concerning the reported abuse or neglect that would otherwise be confidential under this section. The investigating agency shall withhold information under this subsection if the parent, managing conservator, or other legal representative of the child requesting the information is alleged to have committed the abuse or neglect.

Fam. Code § 261.201(a), (k). Upon review, we find submitted information was used or developed in an investigation under chapter 261 of the Family Code by the sheriff's office. *See id.* §§ 101.003(a) (defining "child" for purposes of section 261.201), 261.001(1), (4) (defining "abuse" and "neglect" for purposes of section 261.201 of Family Code). Upon review, we find the submitted information is subject to chapter 261 of the Family Code. We note the requestor is the authorized representative of a parent of the child victim listed in the submitted information, but the parent the requestor represents is alleged to have committed the alleged abuse. Thus, the requestor does not have a right of access to the submitted information under section 261.201(k). *Id.* § 261.201(k). Accordingly, the sheriff's office must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. We note the sheriff's office must not release basic information when a report is confidential under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. As we are able to make this determination, we need not address your remaining arguments against disclosure.

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](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 that reads "Emily Kunst". The signature is written in a cursive, flowing style.

Emily Kunst  
Attorney  
Open Records Division

EK/nmd

Ref: ID# 664340

Enc. Submitted documents

c: Requestor  
(w/o enclosures)