



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

July 21, 2017

Mr. J. R. Harris  
Assistant County Attorney  
Harris County  
1019 Congress, 15th Floor  
Houston, Texas 77002

OR2017-16371

Dear Mr. 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# 671599 (CA File No. 17PIA0311).

The Harris County Constable's Office, Precinct 5 (the "constable's office"), received a request for all records related to a specified address. The constable's office claims the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception the constable's office claims 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."<sup>1</sup> 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) [T]he following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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.

...

(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.

(l) Before a child or a parent, managing conservator, or other legal representative of a child may inspect or copy a record or file concerning the child under Subsection (k), the custodian of the record or file must redact:

...

- (2) any information that is excepted from required disclosure under [the Act], or other law; and
- (3) the identity of the person who made the report.

Fam. Code § 261.201(a), (k), (l)(2)-(3). Some of the submitted information, which we have marked, was used or developed in investigations of alleged or suspected child abuse or neglect conducted by the constable's office. *See id.* §§ 101.003(a) (defining "child" for purposes of this section as person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes), 261.001(1), (4) (defining "abuse" and "neglect" for purposes of chapter 261 of the Family Code). Accordingly, we find this information is subject to chapter 261 of the Family Code. We note the requestor may be a parent, managing conservator, or other legal representative of the

child victim listed in the information at issue. Moreover, the requestor is not alleged to have committed the abuse or neglect. Thus, if the requestor is not a parent, managing conservator, or other legal representative of the child victim, then as the constable's office does not indicate the constable's office has adopted a rule that governs the release of this type of information, the constable's office must withhold the marked information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute).

However, if the requestor is a parent, managing conservator, or other legal representative of the child victim listed in the submitted information, then pursuant to section 261.201(k), the information at issue may not be withheld from this requestor under section 552.101 of the Government Code on the basis of section 261.201(a). *See id.* § 261.201(k). In that instance, section 261.201(l)(3) states the identity of the reporting party shall be withheld from disclosure. *Id.* § 261.201(l)(3). Moreover, we will consider the constable's office's argument against disclosure of the information at issue, as well as the remaining submitted information.

Section 552.108(a)(1) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). The constable's office states, and provides a statement demonstrating, the submitted information pertains to an active criminal investigation or prosecution. Based on this representation, we conclude the release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, section 552.108(a)(1) is applicable to the submitted information.

However, we note section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov’t Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). We note basic information includes, among other items, the identity of the complainant. *See* ORD 127 at 3-4. Thus, with the exception of the basic information, the constable's office may withhold the remaining information under section 552.108(a)(1) of the Government Code. As noted above, section 261.201(l)(3) states the identity of the reporting party shall be withheld from disclosure. Fam. Code § 261.201(l)(3). Accordingly, if the requestor is a parent, managing conservator, or other legal representative of the child victim listed in the marked reports, then the constable's office must withhold the identity of

a reporting party who is not the requestor under section 552.101 of the Government Code in conjunction with section 261.201(1)(3) of the Family Code.

In summary, if the requestor is not a parent, managing conservator, or other legal representative of the child victim listed in the marked reports, then the constable's office must withhold the marked information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. With the exception of the basic information, the constable's office may withhold the remaining information under section 552.108(a)(1) of the Government Code; however, if the requestor is a parent, managing conservator, or other legal representative of the child victim listed in the marked reports, then the constable's office must withhold the identity of a reporting party who is not the requestor under section 552.101 of the Government Code in conjunction with section 261.201(1)(3) of the Family Code.

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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CMN/tdw

Ref: ID# 671599

Enc. Submitted documents

c: Requestor  
(w/o enclosures)