



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 30, 2017

Ms. Ann-Marie Sheely  
Assistant County Attorney  
Travis County  
P.O. Box 1748  
Austin, Texas 78767

OR2017-19904

Dear Ms. Sheely:

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# 679796.

The Travis County District Attorney's Office (the "district attorney's office") received a request for information pertaining to a specified case. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (permitting interested third party to submit to attorney general reasons why requested information should or should not be released). We have considered the submitted arguments and reviewed the submitted representative sample of information.<sup>1</sup>

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 section 261.201 of the Family Code, which provides, in relevant part:

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<sup>1</sup>We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

(a) [T]he following information is confidential, is not subject to public release under [the Act] 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.

...

(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.

Fam. Code § 261.201(a), (k), (l)(2). Upon review, we find the submitted information was used or developed in an investigation of alleged or suspected child abuse under chapter 261 of the Family Code. *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 the submitted information is subject to chapter 261 of the Family Code. However, we note the requestor is a representative of the parent of the child victim named in the information at

issue, and the parent is not alleged to have committed the abuse. Therefore, the district attorney's office may not withhold the submitted information from the requestor under section 261.201(a). *See id.* § 261.201(k). We also note section 261.201(l)(2) states that any information excepted from required disclosure under the Act or other law may still be withheld from disclosure. *See id.* § 261.201(l)(2). Thus, we will consider your argument under 552.108 of the Government Code for the 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). You state the submitted information relates to a pending prosecution. Based on your representation and our review, we find release of the submitted information 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, 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). Section 552.108(c) refers to the basic information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of basic information, which must be released, the district attorney's office may withhold the submitted information under section 552.108(a)(1) of the Government Code.<sup>2</sup>

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

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<sup>2</sup>We note the requestor has a special right of access to the information being released. *See* Fam. Code § 261.201(k). Accordingly, if the district attorney's office receives another request for this same information from a different requestor, the district attorney's office must again seek a ruling from this office.

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 "Kenny Moreland". The signature is fluid and cursive, with a large initial "K" and a long, sweeping underline.

Kenny Moreland  
Assistant Attorney General  
Open Records Division

KJM/sdk

Ref: ID# 679796

Enc. Submitted documents

c: Requestor  
(w/o enclosures)