



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 1, 2017

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

OR2017-20077

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# 673897 (CA File No. 17PIA0354).

The Harris County Constable's Office, Precinct 5 (the "constable's office"), received a request for all records related to a specified address during a specified time period. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note some of the submitted information, which we marked, was the subject of a previous ruling from this office, as a result of which this office issued Open Records Letter No. 2017-16371 (2017). We have no indication the law, facts, or circumstances upon which the prior ruling was based have changed. Accordingly, the constable's office may rely on Open Records Letter No. 2017-16371 as a previous determination and withhold or release the previously ruled upon 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 addressed in a 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 the arguments you raise for the information not encompassed by the prior ruling.

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. Section 552.101 encompasses section 261.201 of the Family Code, which provides 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 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:

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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).

- (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). Report number CE170610871 was used or developed in an investigation 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 generally confidential under section 261.201 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. *See id.* § 261.201(k). Thus, if the requestor is not a parent, managing conservator, or other legal representative of the child victim, then the constable's office must withhold report number CE170610871 from the requestor under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.

However, if the requestor is a parent, managing conservator, or other legal representative of the child victim listed in the information at issue, then pursuant to section 261.201(k), the constable's office may not withhold report number CE170610871 from the requestor under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. *See id.* However, in this instance, we note section 261.201(l)(3) states the identity of the reporting party must be withheld. *Id.* § 261.201(l)(3). Further, section 261.201(l)(2) states any information that is excepted from required disclosure under the Act or other law must still be withheld from disclosure. *Id.* § 261.201(l)(2). Thus, to the extent the requestor is a parent, managing conservator, or other legal representative of the child victim, we will consider your argument against disclosure of report number CE170610871. We will also consider your argument for the remaining 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 information at issue.

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). Basic information refers to the 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). We note basic information includes, among other items, the identity of the complainant. See ORD 127 at 3-4. Accordingly, with the exception of basic information, the constable's office may withhold report number CE170610871 and the remaining information under section 552.108(a)(1) of the Government Code.

As previously noted, section 261.201(1)(3) states the identity of the reporting party must be withheld. See Fam. Code § 261.201(1)(3). Accordingly, if the requestor is a parent, managing conservator, or other legal representative of the child victim listed in report number CE170610871, then the constable's office must withhold the identity of the reporting party under section 552.101 of the Government Code in conjunction with section 261.201(1)(3) of the Family Code.

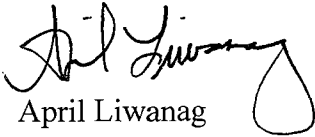
In summary, the constable's office may rely on Open Records Letter No. 2017-16371 as a previous determination and withhold or release the previously ruled upon information in accordance with that ruling. If the requestor is not a parent, managing conservator, or other legal representative of the child victim listed in report number CE170610871, the constable's office must withhold this report under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. With the exception of 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 report number CE170610871, then, with the exception of basic information, the constable's office may withhold this report and the remaining information from the requestor under section 552.108(a)(1) of the Government Code. In that case, in releasing basic information to the requestor, the constable's office must withhold the identity of the reporting party 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](#), 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,



April Liwanag  
Attorney  
Open Records Division

AML/eb

Ref: ID# 673897

Enc. Submitted documents

c: Requestor  
(w/o enclosures)