



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 10, 2019

Ms. Heather Silver  
Assistant City Attorney  
City of Dallas  
1400 South Lamar, 6th Floor, 6W  
Dallas, Texas 75215

OR2019-15485

Dear Ms. Silver:

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# 769748 (ORR# D007841-031819).

The Dallas Police Department (the "department") received a request for information pertaining to a specified incident. The department claims the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code.<sup>1</sup> We have considered the claimed exceptions and reviewed the submitted information.

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

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<sup>1</sup>We note the department did not comply with the requirements of section 552.301 of the Government Code. *See* Gov't Code § 552.301(b). Nevertheless, because section 552.101 of the Government Code and the need of a governmental body, other than the governmental body that failed to timely seek an open records decision, to withhold information under section 552.108 of the Government Code can provide compelling reasons sufficient to overcome the presumption of openness. *See* Open Records Decision NO. 586 (1991).

(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:

(1) any personally identifiable information about a victim or witness under 18 years of age unless that victim or witness is:

(A) the child who is the subject of the report; or

(B) another child of the parent, managing conservator, or other legal representative requesting the information;

(2) any information that is excepted from required disclosure under [the Act], or other law[.]

Fam. Code § 261.201(a), (k), (l)(1)-(2). The department asserts the submitted information was used or developed in an investigation of alleged or suspected child abuse or neglect

under chapter 261 of the Family Code. *See id.* §§ 101.003(a) (defining “child” for purposes of section 261.201), 261.001(1) (defining “abuse” for purposes of section 261.201). Upon review, we find the submitted information is within the scope of section 261.201(a). However, we note the requestor, who is not alleged to have committed the suspected abuse, may be a parent, managing conservator, or other legal representative of one or more of the child victims. Thus, we must rule conditionally. If the requestor is not a parent, managing conservator, or other legal representative of any of the child victims, then the department must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. If the requestor is a parent, managing conservator, or other legal representative of any of the child victims, then the department may not withhold the submitted information from this requestor on the basis of section 261.201(a). *See id.* § 261.201(k). However, in that situation, the department must withhold the identifying information of any child victim who is not the requestor’s child under section 552.101 of the Government Code in conjunction with section 261.201(l)(1) of the Family Code. *See id.* § 261.201(l)(1). In addition, section 261.201(l)(2) states any information that is excepted from required disclosure under the Act or other law must be redacted. *Id.* § 261.201(l)(2). Therefore, in the event the requestor is a parent, managing conservator, or other legal representative of any of the child victims, we must address whether the information at issue is otherwise excepted from release.

Section 552.108(a) 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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Generally, a governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See Gov’t Code* §§ 552.108(a)(1), (b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). The department has submitted correspondence from the Dallas County District Attorney’s Office (the “district attorney’s office”) objecting to the release of the information at issue because it relates to a pending criminal investigation. Based on this representation, we conclude the 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).

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 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). We note basic information includes a detailed description of the offense and the identity of the complainant, but does not include the identity of the victim, unless the victim is the complainant. *See* ORD 127 at 3-4. Thus, if the requestor is a parent of any of the child victims at issue, then, with the exception of basic information, the department may withhold

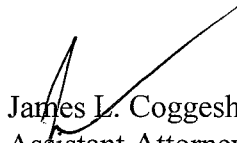
the submitted information under section 552.108(a)(1) of the Government Code on behalf of the district attorney's office.

To conclude, if the requestor is not a parent, managing conservator, or other legal representative of any of the child victims at issue in the submitted information, then the department must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. If the requestor is a parent, managing conservator, or other legal representative of any of the child victims, then the department (1) must withhold the identifying information of any child victim who is not the requestor's child under section 552.101 of the Government Code in conjunction with section 261.201(1)(1) of the Family Code; (2) must release the remaining basic information; and (3) may withhold the remaining information under section 552.108(a)(1) of the Government Code on behalf of the district attorney's office.

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,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/gw

Ref: ID# 769748

Enc. Submitted documents

c: Requestor  
(w/o enclosures)