



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 28, 2019

Mr. Mark Kratovil
Assistant Criminal District Attorney
Tarrant County
401 West Belknap
Fort Worth, Texas 76196

OR2019-17870

Dear Mr. Kratovil:

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# 772659.

The Tarrant County Criminal District Attorney's Office (the "district attorney's office") received a request for ten categories of information related to a specified cause number, including information related to the grand jury.¹ The district attorney's office claims the submitted information is excepted from disclosure under section 552.101 of the Government Code.² We have considered the exception the district attorney's office claims and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."

¹The district attorney's office states it sought and received clarification of the information requested. See Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); see also *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

²We note the district attorney's office did not comply with section 552.301 of the Government Code in requesting a ruling from this office. See Gov't Code § 552.301(b), (e). Nonetheless, because the exception the district attorney's office claims can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. See *id.* §§ 552.007, .302, .352.

Gov't Code § 552.101. This section encompasses information protected by section 261.201 of the Family Code, which provides, in 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 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.

Fam. Code § 261.201(a). Upon review, we find a portion of the submitted information, which we have marked, was used or developed in an investigation of alleged or suspected child abuse or neglect conducted by the district attorney'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. The district attorney's office does not indicate it has adopted a rule that governs the release of this type of information and therefore we assume no such regulation exists. Given that assumption, we conclude the district attorney's office must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.³ *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute). However, we find the district attorney's office has not demonstrated the remaining information was used or developed in an investigation of alleged or suspected child abuse or neglect under section 261.201(a)(2). Furthermore, the district attorney's office has not established the remaining information is a report of alleged or suspected abuse or neglect made under section 261.201(a)(1). *See id.* § 261.001(1), (4) (defining "abuse" and "neglect" for purposes of Fam. Code ch. 261). Therefore, the district attorney's office may not withhold the remaining information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

Section 552.101 of the Government Code also encompasses article 19.42 of the Code of Criminal Procedure, which provides as follows:

³As our ruling is dispositive for this information, we need not address the remaining argument against its disclosure.

(a) Except as provided by Subsection (b), information collected by the court, court personnel, or prosecuting attorney during the grand jury selection process about a person who serves as a grand juror, including the person's home address, home telephone number, social security number, driver's license number, and other personal information, is confidential and may not be disclosed by the court, court personnel, or prosecuting attorney.

(b) On a showing of good cause, the court shall permit disclosure of the information sought to a party to the proceeding.

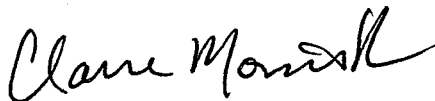
Crim. Proc. Code art. 19.42. Article 19.42 makes confidential certain "personal information" pertaining to individuals who served on grand juries. Upon review, we agree some of the remaining information, which the district attorney's office marked, is confidential under article 19.42. Therefore, the district attorney's office must withhold the information it marked under section 552.101 of the Government Code in conjunction with article 19.42 of the Code of Criminal Procedure.

In summary, the district attorney's office must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. The district attorney's office must withhold the information it marked under section 552.101 of the Government Code in conjunction with article 19.42 of the Code of Criminal Procedure. The district attorney's office must release the remaining information.

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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/be

Ref: ID# 772659

Enc. Submitted documents

c: Requestor
(w/o enclosures)