



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 30, 2019

Ms. Christy Gilbert
Assistant County Attorney
Harris County
1019 Congress, 15th Floor
Houston, Texas 77002

OR2019-20857

Dear Ms. Gilbert:

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#781771 (ORR# 19PIA0448).

The Harris County Constable's Office, Precinct 4 (the "constable's office"), received a request for a specified case number. The constable's office claims some of the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code.¹ We have considered the exceptions 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." Gov't Code § 552.101. This section encompasses information made confidential by other statutes, such as section 261.201(a) of the Family Code, which provides, in relevant part:

(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:

¹Although the constable's office does not raise section 552.101 or section 552.130 of the Government Code in its brief, we understand the constable's office to raise these exceptions based on its markings.

(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 the submitted reports may have been used or developed by the constable's office in investigations of alleged or suspected child abuse under chapter 261 of the Family Code, so as to fall within the scope of section 261.201(a). *See id.* § 261.001(1) (defining "abuse" for purposes of Family Code chapter 261); *see also 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 disabilities of minority removed for general purposes). However, as we are unable to determine the ages of the alleged victims, we must rule conditionally. If the submitted report involves a victim of alleged abuse who was a child at the time of the incident at issue, the constable's office must withhold the information at issue under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.² However, if the alleged victims at issue were not children as defined by section 101.003 of the Family Code at the time of the incident at issue, the submitted report is not subject to section 261.201, and may not be withheld under section 552.101 on that basis. In that instance, we will address your remaining argument for the information at issue.

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[.]" *Id.* § 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 information at issue pertains to an active criminal investigation. Based on your 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, the constable's office may withhold the information it indicated under section 552.108(a)(1) of the Government Code.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is

²In this instance, as our ruling is dispositive, we need not address your remaining argument against disclosure of the submitted information.

excepted from public release. *See* Gov't Code § 552.130. Accordingly, the constable's office must withhold the motor vehicle record information it indicated and the additional information we marked under section 552.130 of the Government Code.

In summary, if the submitted report involves a victim of alleged abuse who was a child at the time of the incident at issue, the constable's office must withhold the information at issue under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. If the alleged victims at issue were not children as defined by section 101.003 of the Family Code at the time of the incident at issue, the submitted report is not subject to section 261.201, and may not be withheld under section 552.101 on that basis. In that instance, the constable's office may withhold the information it indicated under section 552.108(a)(1) of the Government Code. The constable's office must withhold the motor vehicle record information it indicated and the additional information we marked under section 552.130 of the Government 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,



Jesse Harvey
Assistant Attorney General
Open Records Division

JH/be

Ref: ID# 781771

Enc. Submitted documents

c: Requestor
(w/o enclosures)