



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 15, 2019

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

OR2019-22649

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# 788321.

The Tarrant County Criminal District Attorney's Office (the "district attorney's office") received a request for four categories of information related to a specified prosecution. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the submitted information may have been the subject of previous requests for information, as a result of which this office issued Open Records Letter Nos. 2006-06009 (2006) and 2006-09590 (2006). In Open Records Letter No. 2006-06009, we determined the district attorney's office need not release any information to the extent the district attorney's office had possession of the information as an agent of the grand jury and must withhold the information at issue under section 552.101 of the Government Code in conjunction with the section 261.201 of the Family Code. In Open Records Letter No. 2006-09590, we determined the district attorney's office and the Tarrant County Sheriff's Office (collectively, the "county"): (1) need not release any information to the extent the county had possession of the information as an agent of the grand jury; (2) must withhold some information under section 552.101 of the Government Code in conjunction with constitutional privacy; and (3) must withhold some information under section 552.101 of the Government Code in conjunction with the section 261.201 of the Family Code. We

understand there has been no change in the law, facts, or circumstances on which the previous rulings were based. Accordingly, to the extent the submitted information is identical to the information previously requested and ruled upon by this office in Open Records Letter Nos. 2006-06009 and 2006-09590, the district attorney's office must rely on these prior rulings as previous determinations and withhold identical information in accordance with those rulings. *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 prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). However, to the extent the submitted information was not at issue in the prior rulings, we will address your argument against disclosure of that 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." 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). You state the submitted information was used or developed in an investigation and prosecution of alleged or suspected child abuse or neglect. *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. You do not indicate the district attorney's office 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 submitted information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute).

In summary, to the extent the submitted information is identical to the information previously requested and ruled upon by this office in Open Records Letter Nos. 2006-06009 and 2006-09590, the district attorney's office must rely on these prior rulings as previous determinations and withhold identical information in accordance with those rulings. The district attorney's office must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 261.201 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Tim Neal
Assistant Attorney General
Open Records Division

TN/eb

Ref: ID# 788321

Enc. Submitted documents

c: Requestor
(w/o enclosures)