



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 14, 2019

Mr. Mark Kratovil
Assistant Criminal District Attorney
Tarrant County
401 West Belknap Street, 9TH Floor
Fort Worth, Texas 76196-0201

OR2019-32141

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# 796740.

The Tarrant County Criminal District Attorney's Office (the "district attorney's office") received a request for grand jury minutes, transcripts, and demographic information related to specified cause numbers. You claim portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim 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." 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

¹ We note you 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). Nonetheless, because section 552.101 of the Government Code 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.

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 information you have marked was used or developed in an investigation 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. 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 you have marked under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.¹ *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute).

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

- (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 you have marked, is confidential under article 19.42. Therefore, the district attorney’s office must withhold the information you have

¹ As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

marked under section 552.101 of the Government Code in conjunction with article 19.42 of the Code of Criminal Procedure.

Section 552.101 of the Government Code also encompasses article 20.02(a) of the Code of Criminal Procedure, which provides “[t]he proceedings of the grand jury shall be secret.” *Id.* art. 20.02(a). In construing article 20.02 of the Code of Criminal Procedure, the types of “proceedings” Texas courts have generally stated are secret are testimony presented to the grand jury and the deliberations of the grand jury. *See In re Reed*, 227 S.W.3d 273, 276 (Tex. App.—San Antonio 2007, orig. proceeding). You state the information you have marked consists of final votes of grand jurors as well as the identities of the grand jurors who moved and seconded motions. You state this information reflects the proceedings and results of the grand jury’s deliberations. Based on your representations, we find the information you have marked is confidential under article 20.02(a) of the Code of Criminal Procedure and the district attorney’s office must withhold it under section 552.101 of the Government Code on that ground. *See Open Records Decision No. 513 at 4 (1988)* (information must be withheld if its release would reveal grand jury’s deliberations).

In summary, the district attorney’s office must: (1) withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code; (2) withhold the information you have marked under section 552.101 of the Government Code in conjunction with article 19.42 of the Code of Criminal Procedure; (3) withhold the information you have marked under section 552.101 of the Government Code in conjunction with article 20.02(a) of the Code of Criminal Procedure; and (4) 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 <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# 796740

Enc. Submitted documents

c: Requestor
(w/o enclosures)