



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 8, 2022

Mr. Matthew Entsminger
Assistant County Attorney
Travis County
P. O. Box 1748
Austin, Texas 78767

OR2022-03527

Dear Mr. Entsminger:

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# 930294.

The Travis County Sheriff's Office (the "sheriff's office") received a request for a specified police report. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim 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 protected by other statutes. Section 261.201 of the Family Code provides, in relevant 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.

...

(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:

...

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

(3) the identity of the person who made the report.

Fam. Code § 261.201(a), (k), (l)(2), (3). The submitted information relates to 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 the submitted information is generally subject to chapter 261 of the Family Code. We note the requestor represents the parent of the child victim named in the information at issue, and the parent is not alleged to have committed the abuse. However, we are unable to determine the current age of the child victim involved in the information at issue. Thus, we must rule conditionally. If the child victim at issue is now at least 18 years of age, then the requestor does not have a right of access to the information under section 261.201(k) of the Family Code, and the sheriff’s office must withhold the submitted information in its entirety 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).

However, if the child victim is currently under 18 years of age, then pursuant to section 261.201(k), the submitted information may not be withheld from this requestor under

¹ In this instance, as our ruling is dispositive, we need not address your remaining arguments against disclosure of the submitted information.

section 552.101 of the Government Code on the basis of section 261.201(a). *See* Fam. Code § 261.201(k). However, section 261.201(1)(3) provides the identity of the reporting party must be withheld. Therefore, in this instance, the sheriff's office must withhold the identifying information of the reporting party under section 552.101 of the Government Code in conjunction with section 261.201(1)(3) of the Family Code.² Further, pursuant to section 261.201(1)(2) of the Family Code, we will consider the applicability of additional exceptions to disclosure of the information we marked.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. *See* Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the submitted information pertains to a concluded investigation that did not result in conviction or deferred adjudication. Based on your representation and our review, we agree section 552.108(a)(2) is applicable to the submitted information.

However, section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” *Id.* § 552.108(c). Section 552.108(c) refers to the basic information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*. *See* 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of basic information, the sheriff's office may withhold the submitted information under section 552.108(a)(2) of the Government Code.

In summary, if the child victim at issue is now at least 18 years of age, then the requestor does not have a right of access to the information under section 261.201(k) of the Family Code, and the sheriff's office must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. If the child victim is currently under 18 years of age, then with the exception of basic information, the sheriff's office may withhold the submitted information under section 552.108(a)(2) of the Government Code. In releasing basic information, the sheriff's office must withhold the identifying information of the reporting party under section 552.101 of the Government Code in conjunction with section 261.201(1)(3) 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

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

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,

Kelly McWethy
Assistant Attorney General
Open Records Division

KM/be

Ref: ID# 930294

Enc. Submitted documents

c: Requestor
(w/o enclosures)