



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 23, 2022

Ms. Jessica N. Morrison
Assistant County Attorney
Williamson County
405 Martin Luther King Street, Box 7
Georgetown, Texas 78626

OR2022-25452

Dear Ms. Morrison:

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# 967914 (Reference No. 2022-482-PIA).

Williamson County (the "county") received a request for 9-1-1 recordings and all reports pertaining to a stated address during a stated year. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the claimed exceptions 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. Section 552.101 encompasses information protected by section 261.201 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:

(1) a report of alleged or suspected abuse or neglect made under [chapter 261 of the Family Code] 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 [chapter 261 of the Family Code] 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.

Fam. Code § 261.201(a), (k). You claim the information you indicated was used or developed in investigations under chapter 261. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code); *see also id.* § 101.003(a) (defining “child” for purposes of section 261.201 as a 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). Upon review, we find report number 2022-136976 is subject to chapter 261 of the Family Code. We note the requestor is a parent of the child victim listed in the information at issue, but the requestor is alleged to have committed the alleged abuse or neglect. Thus, the requestor does not have a right of access to report number 2022-136976 under section 261.201(k). *Id.* § 261.201(k). Accordingly, the county must withhold report number 2022-136976 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.¹ However, upon review, we find you have failed to demonstrate the remaining information at issue consists of reports of child abuse or neglect or was used or developed in investigations under chapter 261. Therefore, we conclude section 261.201 is not applicable to the remaining information at issue, and it may not be withheld under section 552.101 on that basis.

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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 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);

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

see also Ex parte Pruitt, 551 S.W.2d 706 (Tex. 1977). You state report numbers 2022-138106, 2022-138157, 2022-138272, 2022-138347, 2022-138384, 2022-138432, 2022-138440, 2022-138724, 2022-157329, and 2022-130244 relate to ongoing criminal investigations or pending prosecutions. Based upon this 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, section 552.108(a)(1) is applicable to the information at issue.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. *See Gov't Code* § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the information at issue relates to a criminal investigation that has concluded in a final result other than conviction or deferred adjudication. *See id.* §§ 552.108(a)(2), .301(e)(1)(A). You assert report numbers 2022-136717, 2022-136718, 2022-136721, 2022-136796, 2022-137285, 2022-138447, and 2022-143028 relate to criminal investigations that concluded in results other than convictions or deferred adjudications. Based upon your representation, we conclude section 552.108(a)(2) is applicable to the information at issue.

However, section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” *See id.* § 552.108(c). Section 552.108(c) refers to the basic information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; *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 county may withhold report numbers 2022-138106, 2022-138157, 2022-138272, 2022-138347, 2022-138384, 2022-138432, 2022-138440, 2022-138724, 2022-157329, and 2022-130244 under section 552.108(a)(1) of the Government Code and report numbers 2022-136717, 2022-136718, 2022-136721, 2022-136796, 2022-137285, 2022-138447, and 2022-143028 under section 552.108(a)(2) of the Government Code.²

In summary, the county must withhold report number 2022-136976 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. With the exception of basic information, which must be released, the county may withhold report numbers 2022-138106, 2022-138157, 2022-138272, 2022-138347, 2022-138384, 2022-138432, 2022-138440, 2022-138724, 2022-157329, and 2022-130244 under section 552.108(a)(1) of the Government Code and report numbers 2022-136717, 2022-136718, 2022-136721, 2022-136796, 2022-137285, 2022-138447, and 2022-143028 under section 552.108(a)(2) of the Government Code.³

² As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.

³ We note the requestor has a right of access to some of the basic information at issue pursuant to section 58.008(d) of the Family Code. *See Fam. Code* § 58.008(d). *But see id.* § 58.008(e)(2) (providing any information excepted from required disclosure under the Act or other law must be withheld from disclosure).

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,

James M. Graham
Assistant Attorney General
Open Records Division

JMG/mo

Ref: ID# 967914

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Accordingly, if the county receives another request for this information from a different requestor, the county must again seek a ruling from this office. *See* Gov't Code §§ 552.301, .302; Open Records Decision No. 673 (2001).