



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 9, 2022

Ms. Avis D. White
Paralegal
City of Killeen
P.O. Box 1329
Killeen, Texas 76540

OR2022-27658

Dear Ms. White:

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# 971559 (ORR# W039640).

The Killeen Police Department (the "department") received a request for information pertaining to a specified address. The department claims 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 disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses section 261.201 of the Family Code, which provides, in relevant part, as follows:

(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 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:

(1) any personally identifiable information about a victim or witness under 18 years of age unless that victim or witness is:

(A) the child who is the subject of the report;
or

(B) another child of the parent, managing conservator, or other legal representative requesting the information;

(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). Upon review, we find some of the submitted information was used or developed in investigations of alleged or suspected child abuse or neglect under chapter 261 of the Family Code. *See id.* §§ 101.003(a) (defining “child” for purposes of section 261.201), 261.001(1), (4) (defining “abuse” and “neglect” for purposes of section 261.201). Thus, this information is within the scope of section 261.201(a). The requestor is a parent of the child victim at issue. The requestor was suspected of committing the alleged or suspected abuse or neglect in some of the reports at issue, which we have marked. Therefore, we determine the requestor does not have a right of access to this information

under section 261.201(k). *See id.* § 261.201(k). Accordingly, we conclude the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute). However, the requestor is not alleged to have committed the suspected abuse or neglect in report number K18097262. Thus, the department may not withhold this report from this requestor on the basis of section 261.201(a). *See id.* § 261.201(k). However, section 261.201(l)(3) provides the identity of the reporting party must be withheld. Therefore, the department must withhold the identifying information of the reporting party in report number K18097262 under section 552.101 of the Government Code in conjunction with section 261.201(l)(3) of the Family Code. In addition, section 261.201(l)(2) states any information that is excepted from required disclosure under the Act or other law must still be withheld from disclosure. *Id.* § 261.201(l)(2). Therefore, pursuant to section 261.201(l)(2) we must determine whether the remaining information at issue is otherwise excepted from release under the Act. We find the remaining information is not confidential under section 261.201 of the Family Code, and the department may not withhold it under section 552.101 of the Government Code on that ground.

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. 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 a conviction or deferred adjudication. *See id.* §§ 552.108(a)(2), .301(e)(1)(A). Upon review, we find the department has not established section 552.108(a)(2) is applicable to the remaining information. Therefore, the department may not withhold the remaining information on that ground.

In summary, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. The department must also withhold the identifying information of the reporting party in report number K18097262 under section 552.101 of the Government Code in conjunction with section 261.201(l)(3) of the Family Code. The department must release the remaining information.¹

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

¹ Because the requestor has a special right of access to some of the information being released, the department must again seek a decision from this office if it receives a request for the same information from another requestor.

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 L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/mo

Ref: ID# 971559

Enc. Submitted documents

c: Requestor
(w/o enclosures)