



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 23, 2015

Ms. Natalie R. Broaddus
Assistant District Attorney
Brazoria County
111 East Locust Street, Suite 408A
Angleton, Texas 77515

OR2015-22268

Dear Ms. Broaddus:

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# 584415.

The Brazoria County District Attorney's Office (the "district attorney's office") received a request for information pertaining to a specified incident. You indicate you will redact certain motor vehicle record information under section 552.130(c) of the Government Code.¹ 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. Section 552.101 encompasses information made confidential by other statutes, including 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:

¹Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. See Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). See *id.* § 552.130(d), (e).

(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 . . . 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[.]

Fam. Code § 261.201(a), (1)(2); Act of May 29, 2015, 84th Leg., R.S., ch. 734, § 82, 2015 Tex. Sess. Law Serv. 2218, 2244 (Vernon) (to be codified as an amendment to Fam. Code. § 261.201(k)). Upon review, we find the submitted information was used or developed in an investigation of alleged or suspected child abuse or neglect under chapter 261 of the Family Code, so as to fall within the scope of section 261.201(a). *See* Fam. Code § 101.003(a) (defining “child” for purposes of section 261.201); Act of June 1, 2015, 84th Leg., R.S., ch. 1273, § 4, 2015 Tex. Sess. Law Serv. 4310, 4312 (Vernon) (to be codified as an amendment to Fam. Code. § 261.001(1)), Act of May 21, 2015, 84th Leg., R.S., ch. 432, § 1, 2015 Tex. Sess. Law Serv. 1686, 1686-87 (Vernon) (to be codified as an amendment to Fam. Code. § 261.001(4)) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code). We note the requestor is a parent of the alleged child victim at issue and is not accused of committing the alleged or suspected child abuse or neglect. Therefore, the district attorney’s office may not withhold the submitted information from the requestor on the basis of section 261.201(a) of the Family Code. *See* Act of May 29, 2015, 84th Leg., R.S., ch. 734, § 82, 2015 Tex. Sess. Law Serv. 2218, 2244 (Vernon) (to be codified as an

amendment to Fam. Code. § 261.201(k)). Section 261.201(l)(2), however, states any information that is excepted from required disclosure under the Act or other law may still be withheld from disclosure. Fam. Code § 261.201(l)(2). Therefore, we will consider your arguments for the submitted information.

We note the submitted information includes a CR-3 accident report. Section 550.065 of the Transportation Code applies only to a written report of an accident required under section 550.061, 550.062, or 601.004. Act of June 1, 2015, 84th Leg., R.S., H.B. 2633, § 1 (to be codified at Transp. Code § 550.065(a)(1)). Chapter 550 requires the creation of a written report when the accident resulted in injury to or the death of a person or damage to the property of any person to the apparent extent of \$1,000 or more. Transp. Code §§ 550.061 (operator's accident report), .062 (officer's accident report). An accident report is privileged and for the confidential use of the Texas Department of Transportation or a local governmental agency of Texas that has use for the information for accident prevention purposes. *Id.* § 550.065(b). However, a governmental entity may release an accident report in accordance with subsections (c) and (c-1). Act of June 1, 2015, 84th Leg., R.S., H.B. 2633, § 1 (to be codified at Transp. Code § 550.065(c), (c-1)). Section 550.065(c) provides a governmental entity shall release an accident report to a person or entity listed under this subsection. *Id.* § 550.065(c).

Here, the requestor is a person listed under section 550.065(c). Although the district attorney's office asserts section 552.108 to withhold the information, a statutory right of access prevails over the Act's general exceptions to public disclosure. *See, e.g.*, Open Records Decision Nos. 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information), 451 (1986) (specific statutory right of access provisions overcome general exception to disclosure under the Act). Because section 552.108 is a general exception under the Act, the requestor's statutory access under section 550.065(c) prevails and the district attorney's office may not withhold the information under section 552.108 of the Government Code. Thus, the district attorney's office must release the accident report to the requestor pursuant to section 550.065(c).

Section 552.108(a) 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 reasonably explain how and why the release of the information at issue would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706, 710 (Tex. 1977). The district attorney's office states the remaining information relates to a pending criminal investigation, and releasing that information would interfere with the investigation and prosecution of the case. Based on this representation, we conclude the release of this information 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, 186-87 (Tex. Civ.

App.—Houston [14th Dist.] 1975) (delineating law enforcement interests present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

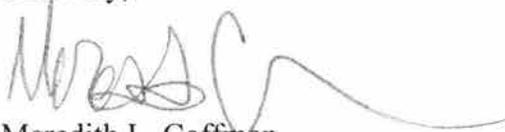
However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, the district attorney's office may withhold the remaining information under section 552.108(a)(1) of the Government Code.²

In summary, the district attorney's office must release the submitted accident report to the requestor pursuant to section 550.065(c) of the Transportation Code. With the exception of basic information, which must be released, the district attorney's office may withhold the remaining information under section 552.108(a)(1) of the Government Code.³

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 http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/dls

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

³Because the requestor has a right of access to the information, the district attorney's office must again seek a decision from this office if it receives a request for this information from a different requestor. See Act of May 29, 2015, 84th Leg., R.S., ch. 734, § 82, 2015 Tex. Sess. Law Serv. 2218, 2244 (Vernon) (to be codified as an amendment to Fam. Code. § 261.201(k)); Gov't Code § 552.023.

Ref: ID# 584415

Enc. Submitted documents

c: Requestor
(w/o enclosures)