



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 7, 2016

Mr. Robert J. Davis
Counsel for the Collin County Sheriff's Office
Matthews, Shiels, Knott, Eden, Davis & Beanland, L.L.P.
8131 LBJ Freeway, Suite 700
Dallas, Texas 75251

OR2016-20197

Dear Mr. Davis:

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# 625370 (CCSO File No. 1600/67383).

The Collin County Sheriff's Office (the "sheriff's office"), which you represent, received seven requests from six different requestors for information related to a specified incident, including incident reports, calls for service, warrants, 9-1-1 call audio, and video recordings.¹ You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.119 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 made confidential by other statutes, such as section 261.201(a) 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

¹We note the sheriff's office sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

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, and provide documentation demonstrating, the submitted information was used in an investigation of alleged child abuse or neglect by the sheriff's office 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 of Family Code). You do not indicate the sheriff's office has adopted any rules that would permit the release of the submitted information. Accordingly, we find the submitted information is subject to chapter 261 of the Family Code. Therefore, we conclude the submitted information is confidential pursuant to section 261.201 of the Family Code and must be withheld under section 552.101 of the Government Code.² *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute).

You ask this office to issue a previous determination that would permit the sheriff's office to withhold from disclosure information made confidential under section 261.201 of the Family Code without the necessity of requesting a decision under section 552.301 of the Government Code. *See* Gov't Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). We decline to issue such a previous determination at this time.

You further ask this office to issue a previous determination permitting the sheriff's office to withhold information subject to section 552.108(a)(1) of the Government Code without first seeking a ruling from this office. *See id.* We note this office has determined it will not issue a previous determination permitting a governmental body to withhold information subject to section 552.108(a)(1) in circumstances in which basic information will not be released because it is confidential under another statute. In this instance, the information at issue, including portions that may be considered to be basic information, is confidential under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. *See* Fam. Code § 261.201; *cf.* Gov't Code § 552.108(c); *Houston Chronicle Publishing Co. v. City of Houston*, 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* Open Records

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

Decision No. 127 (1976) (summarizing the types of information considered to be basic information). Consequently, we decline to issue a previous determination at this time. Accordingly, this letter ruling is limited to the particular records 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 records 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,

A handwritten signature in black ink, appearing to read "J. Behnke", is written over a circular stamp or mark.

Joseph Behnke
Assistant Attorney General
Open Records Division

JB/som

Ref: ID# 625370

Enc. Submitted documents

c: 6 Requestors
(w/o enclosures)