



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 16, 2016

Ms. Marium Uddin
Assistant District Attorney
Dallas County District Attorney's Office
411 Elm Street, Fifth Floor
Dallas, Texas 75202

OR2016-20946

Dear Ms. Uddin:

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# 626680.

The Dallas County Medical Examiner's Office (the "medical examiner's office") received a request for a specified autopsy report. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.²

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."³ Gov't

¹Although you raise section 552.101 of the Government Code in conjunction with section 552.108 of the Government Code, this office has concluded section 552.101 does not encompass other exceptions found in the Act. *See* Open Records Decision Nos. 676 at 1-2 (2002), 575 at 2 (1990).

²We have also considered additional comments you submitted to this office in response to a letter the medical examiner's office received from the requestor.

³The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Code § 552.101. Section 552.101 encompasses information protected by other statutes, such as section 261.201 of the Family Code, which provides, in relevant part:

(a) Except as provided by Section 261.203, the 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.

Fam. Code § 261.201(a). We note the medical examiner's office is not an agency authorized to conduct an investigation under chapter 261. *See id.* § 261.103 (listing agencies that may conduct child abuse investigations). However, you submit documentation showing the submitted information is being used in an investigation of alleged or suspected child abuse conducted by the Dallas Police Department (the "department"). Thus, we conclude the information falls within the scope of section 261.201 of the Family Code. *See also id.* §§ 101.003(a) (defining "child" for purposes of chapter 261 of the Family Code), 261.001(1) (defining "abuse" for purposes of this section). Thus, this information is generally confidential under section 261.201. We note the requestor is an investigator with the Child Protective Services Division of the Texas Department of Family and Protective Services ("DFPS"). Section 261.105(a) provides "[a]ll reports received by a local or state law enforcement agency that allege abuse or neglect by a person responsible for a child's care, custody, or welfare shall be referred immediately to [DFPS]." *See id.* § 261.105(a). In this instance, the submitted information indicates the person suspected of child abuse was responsible for the child's care, custody, or welfare. *See id.* § 261.001(5)(B) (person responsible for child's care, custody, or welfare includes a member of the child's family or household as defined by chapter 71 of the Family Code); *see also id.* § 71.005 (household is a unit composed of persons living together in the same dwelling, without regard to whether they are related to each other). Accordingly, section 261.105(a) is applicable and the confidentiality of section 261.201(a) does not apply to make the information confidential with respect to the requestor in this instance. *See* Attorney General Opinion No. GA-0879 (2011) (law enforcement agency is required to furnish information about alleged child abuse or neglect by person responsible for child's care, custody, or welfare to DFPS). Although you claim the submitted information is excepted from disclosure under section 552.108 of the Government Code, a statute governing the release of specific information prevails over the general exceptions to disclosure found in the Act. Attorney General Opinion DM-146 at 3 (1992); Open Records Decision Nos. 613 at 4 (1993) (exceptions in Act cannot impinge

on statutory right of access to information), 451 at 4 (1986) (specific statutory right of access provisions overcome Act's general exceptions to disclosure). Therefore, the medical examiner's office may not withhold the submitted information from the requestor under section 552.108 of the Government Code. Accordingly, the medical examiner's office must release the submitted information to the requestor in this instance.⁴

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,



Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/dls

Ref: ID# 626680

Enc. Submitted documents

c: Requestor
(w/o enclosures)

⁴In this instance, the requestor has a special right of access to the information being released. Accordingly, if the medical examiner's office receives another request for this same information from a different requestor, the medical examiner's office must again seek a ruling from this office.