



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 17, 2015

Ms. Rebecca R. Walton  
County Attorney  
Office of the County Attorney  
Hardin County  
P.O. Box 516  
Kountze, Texas 77625

OR2015-16913

Dear Ms. Walton:

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# 575631.

The Hardin County Sheriff's Office (the "sheriff's office") received a request from a representative of the Texas State Board of Pharmacy for information concerning a specified arrest. You claim the submitted information is excepted from disclosure under sections 552.103 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."<sup>1</sup> Gov't Code § 552.101. Section 552.101 encompasses section 261.201, which provides:

(a) The following information is confidential, is not subject to public release under [the Act], and may be disclosed only for purposes consistent with [the Family Code] and applicable federal or state law or under rules adopted by an investigating agency:

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

(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). The submitted information was used or developed in an investigation of alleged child abuse or neglect. *See id.* § 261.001 (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code); *see also id.* § 101.003(a) (defining “child” for purposes of chapter 261). Therefore, the submitted information is generally confidential under section 261.201 of the Family Code.

However, section 261.201(a) provides information encompassed by subsection (a) may be disclosed “for purposes consistent with [the Family Code] and applicable federal or state law.” Fam. Code § 261.201(a). Chapter 411 of the Government Code constitutes “applicable state law” in this situation. As previously noted, the requestor is a representative of the Texas State Board of Pharmacy. Section 411.122(a) of the Government Code provides “an agency of this state listed in Subsection (d) . . . that licenses or regulates members of a particular trade, occupation, business, vocation, or profession is entitled to obtain from the [Department of Public Safety (the “DPS”)] criminal history record information maintained by the [DPS] that relates to a person who: (1) is an applicant for a license from the agency; (2) is the holder of a license from the agency; or (3) requests a determination of eligibility for a license from the agency.” Gov’t Code § 411.122(a). We note the Texas State Board of Pharmacy is specifically subject to section 411.122 of the Government Code. *See id.* § 411.122(d)(14). In addition, section 411.087(a) of the Government Code provides:

(a) [A] person, agency, department, political subdivision, or other entity that is authorized by this subchapter to obtain from the [DPS] criminal history record information maintained by the [DPS] that relates to another person is authorized to:

. . .

(2) obtain from any other criminal justice agency in this state criminal history record information maintained by that criminal justice agency that relates to that person.

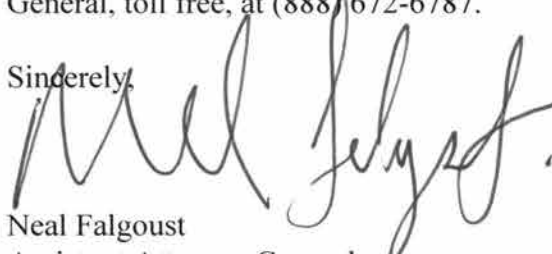
*Id.* § 411.087(a)(2). “Criminal history record information” is defined as “information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions.” *See id.* § 411.082(2). Thus, the submitted information contains “criminal history record information.” The individual named in the request is a holder of a license from the Texas State Board of Pharmacy, so we conclude the requestor is authorized to obtain criminal history record information from the sheriff’s office pursuant

to section 411.087(a)(2) of the Government Code. Therefore, if the sheriff's office determines the release of criminal history record information is for a purpose consistent with the Family Code, then it must release any information to this requestor that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions. *See id.* §§ 411.087(a)(2), .122(a); *see also* Fam. Code § 261.201(a). It must withhold the remaining information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. Although you raise sections 552.103 and 552.108 of the Government Code to withhold the criminal history record information, a specific statutory right of access overcomes general exceptions found in the Act, such as sections 552.103 and 552.108. *See* 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 exceptions to disclosure under the Act). If the sheriff's office determines release of the criminal history record information is not for a purpose consistent with the Family Code, then it must withhold all of the submitted information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. As our ruling is dispositive, we do not address your claimed exceptions.

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](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,



Neal Falgoust  
Assistant Attorney General  
Open Records Division

NF/bhf

Ref: ID# 575631

Enc. Submitted documents

c: Requestor  
(w/o enclosures)