



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 17, 2016

Mr. Vance Hinds  
Assistant County & District Attorney  
County of Ellis  
109 South Jackson  
Waxahachie, Texas 75165

OR2016-23223

Dear Mr. Hinds:

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# 630843.

The Ellis County Sheriff's office (the "sheriff's office") received a request for the arrest report pertaining to a specified incident involving a named individual. The sheriff's office claims the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.147 of the Government Code.<sup>1</sup> We have considered the exceptions the sheriff's office claims 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 that is made confidential by statute. Section 261.201(a) of the Family Code provides as follows:

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for

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<sup>1</sup>Although the sheriff's office raised section 552.101 of the Government Code in conjunction with common-law privacy and constitutional privacy, the sheriff's office has not submitted arguments explaining how common-law or constitutional privacy applies to the submitted information. Therefore, we assume the sheriff's office has withdrawn these claims. *See* Gov't Code §§ 552.301, .302.

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, 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). Upon review, we agree the submitted information was used or developed in an investigation of alleged or suspected child abuse under chapter 261 of the Family Code. *See id.* §§ 101.003(a) (defining “child” for purposes of section 261.201), 261.001(1) (defining “abuse” for purposes of section 261.201). Thus, the submitted information is subject to section 261.201 of the Family Code. However, section 261.201(a) also provides that information encompassed by subsection (a) may be disclosed “for purposes consistent with [the Family Code] and applicable federal or state law.” *Id.* § 261.201(a).

In this instance, the requestor is an investigator with the Enforcement Division of the Texas Lottery Commission (the “commission”). Section 466.201 of the Government Code, in part, states that the commission is entitled to obtain criminal history record information (“CHRI”) maintained by the Department of Public Safety (“DPS”) or another law enforcement agency to assist in the investigation of any of the categories of persons enumerated in subsections 466.201(a) and 466.201(b). Gov’t Code § 466.201(a)-(b). Under section 411.087 of the Government Code, an agency that is entitled to obtain CHRI from DPS is also authorized to “obtain from any other criminal justice agency in this state [CHRI] maintained by that criminal justice agency[.]” *Id.* § 411.087(a)(2). Further, section 411.108 of the Government Code also provides that the commission is entitled to obtain CHRI maintained by the DPS that relates to a person who falls under either subsection (a) or subsection (a-1) of that section. *See* Gov’t Code § 411.108(a), (a-1).

CHRI 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, when read together, sections 466.201, 411.087, and 411.108 of the Government Code may grant the commission a right of access to the CHRI pertaining to the named individual within the submitted incident report.

Accordingly, if the sheriff’s office determines that release of the CHRI is consistent with the purposes of the Family Code and the individual at issue falls within one of the categories enumerated in either section 466.201 or section 411.108 of the Government Code, then the

requestor is authorized to obtain the CHRI contained in the submitted incident report. Although the sheriff's office also raises section 552.108 of the Government Code for this information, we note a specific statutory right of access overcomes general exceptions to disclosure in the Act. *See* Open Records Decision Nos. 623 at (1993) (exceptions in the 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). The remaining information in the submitted incident report must, however, be withheld under section 552.101 in conjunction with section 261.201 of the Family Code. If the sheriff's office determines that release of the CHRI is not consistent with the purposes of the Family Code or the individual at issue does not fall within one of the categories enumerated in section 466.201 or section 411.108, then the commission does not have a right of access to the CHRI and the submitted incident report must be withheld in its entirety under section 552.101 in conjunction with section 261.201 of the Family Code.

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,



Rahat Huq  
Assistant Attorney General  
Open Records Division

RSH/som

Ref: ID# 630843

Enc. Submitted documents

c: Requestor  
(w/o enclosures)