



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 22, 2017

Mr. John B. Strong
Assistant City Attorney
City of Fort Worth
200 Texas Street, 3rd Floor
Fort Worth, Texas 76102-6311

OR2017-13846

Dear Mr. Strong:

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# 662788 (Ref. No. W060755).

The City of Fort Worth (the "city") received a request for information pertaining to a named individual, including a specified report. You state you have released some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the requestor, in her official capacity as an investigator with the California Department of Social Services, asserts she has a right of access to the requested information under sections 1522, 1568.09, 1569.17, and 1596.871 of the California Health and Safety Code. These sections authorize the California Department of Social Services to obtain arrest records or reports from a law enforcement agency as necessary to the performance of its duties associated with licensing individuals who provide care in community care facilities and to the elderly and children. *See generally* Cal. Health & Safety Code §§ 1522(e), 1568.09(e), 1569.17(e), 1596.871(e). The Act generally does not incorporate the confidentiality or access provisions of other states' statutes and regulations because those laws only govern the disclosure of information held by those states. *But see* Open Records Decision No. 561 at 6-7 (1990) (noting that if agency of federal government shares its information with Texas governmental entity, Texas entity must withhold information that

federal agency determined to be confidential under federal law). The submitted information is maintained by the city, which is subject to the state laws of Texas. Thus, although sections 1522, 1568.09, 1569.17, and 1596.871 of the California Health and Safety Code authorize the requestor to perform criminal background checks on individuals applying for various California licenses, these statutes do not grant the requestor access to records of a Texas governmental body that are excepted from disclosure under the Act. Accordingly, we will address the city's argument against disclosure of 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 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 the submitted information was used in an investigation of alleged child abuse or neglect 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 city's police department has adopted any rules that would permit the release of the responsive 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. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute).

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,

A handwritten signature in black ink, appearing to read 'Meredith L. Coffman', with a long, sweeping horizontal line extending to the right.

Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/tdw

Ref: ID# 662788

Enc. Submitted documents

c: Requestor
(w/o enclosures)