



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 17, 2017

Mr. Christopher K. Austria  
Assistant City Attorney  
City of Fort Worth  
200 Texas Street, Third Floor  
Fort Worth, Texas 76102-6311

OR2017-23754

Dear Mr. Austria:

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# 680331 (ORR# W063934).

The Fort Worth Police Department (the "department") received a request for all domestic violence calls at four locations during a specified time period. You state you released some of the information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101 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." Gov't Code § 552.101. Section 552.101 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 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 or developed in an investigation of alleged or suspected child abuse or neglect. *See id.* §§ 101.003(a) (defining “child” for purposes of this section as person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes), 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code). Thus, we find the submitted information is within the scope of section 261.201 of the Family Code. We have no indication the department has adopted a rule that governs the release of this type of information. Therefore, we assume no such regulation exists. Given that assumption, this information is generally confidential under section 261.201(a) of the Family Code and the department must generally withhold it under section 552.101 of the Government Code on that basis.

However, the request indicates the requestor is a representative of a child-placing agency that is licensed by the Texas Department of Family Protective Services (“DFPS”) in accordance with chapter 42 of the Human Resources Code, and the information may pertain to the address of prospective foster parents. *See generally* Hum. Res. Code ch. 42. Section 261.201 of the Family Code 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). Section 749.2447(7) of title 40 of the Texas Administrative Code constitutes such “applicable state law.”

A child-placing agency must complete a foster home screening prior to verifying a foster home. *See* 40 T.A.C. § 749.2445(a); Hum. Res. Code § 42.042(a), (h)-(h-1) (DFPS shall make rules to carry out provisions of chapter 42, including minimum standards for child-placing agencies). Further, child-placing agencies are required to evaluate a foster home for compliance with licensing rules in certain instances. *See* 40 T.A.C. § 749.2801. Pursuant to section 749.2471, verifying a foster home includes completing and documenting the requirements set out in section 749.2447 of title 40 of the Texas Administrative Code. *Id.* § 749.2471(1); *cf.* Hum. Res. Code § 42.0561 (providing that “[b]efore a child-placing agency may issue a verification certificate for an agency foster home, the child-placing agency must obtain information relating to each family violence report at the applicant’s residence to which a law enforcement agency responded during the 12 months preceding the date of the application. The applicant shall provide the information on a form prescribed by [DFPS].”). Section 749.2447(7) provides a child-placing agency must obtain, document, and assess, in part, the following information:

The results of criminal history and central registry background checks conducted on the prospective foster parents[.]

(B) With respect to law enforcement service call information, [the child-placing agency] *must do the following*:

(i) *Obtain service call information from the appropriate law enforcement agency for the prospective foster parents' addresses for the past two years.* Discuss with the prospective foster parents any service call information that [the child-placing agency] obtain[s] from a law enforcement agency and the facts surrounding the incident.

(iii) Assess and document information obtained from law enforcement and any discussion with the prospective foster parents in the foster home screening.

40 T.A.C. § 749.2447(7)(B)(i), (iii) (emphasis added); *see id.* § 749.2445(a); *see id.* §§ 745.21(8) (defining “child-placing agency”), (29) (defining “permit”), (30) (defining “permit holder”), 749.41(1) (defining “you” as applicant or permit holder), .43 (words and terms in chapter 749 have meanings assigned under section 745.21). Thus, sections 749.2447(7) and 749.2471 of title 40 of the Texas Administrative Code require a child-placing agency to obtain all service call information for a two year period for service calls to the addresses of prospective foster parents from appropriate law enforcement agencies. *See id.* §§ 749.2471, .2447(7). Accordingly, we find a child-placing agency licensed by DFPS under chapter 42 of the Human Resources Code has a right of access to this information under section 749.2447(7) when it is obtained for the purpose of verifying a prospective foster home pursuant to the requirements of section 749.2471.

In this instance, the requestor is seeking all domestic violence calls that may pertain to the addresses of prospective foster parents for the previous two years. Because we cannot determine whether the requestor is seeking access pursuant to section 749.2447(7), we must rule conditionally. Therefore, to the extent the submitted information pertains to the addresses of prospective foster parents, we conclude the requestor has a right of access to the submitted information pursuant to section 749.2447(7) of title 40 of the Texas Administrative Code. Moreover, as noted above, section 261.201(a) states any release must be “for purposes consistent with the Family Code.” *See* Fam. Code § 261.201(a). We find release of the information at issue to this requestor is for a purpose consistent with the Family Code. Accordingly, to the extent the requestor has a right of access pursuant to section 749.2447(7) of title 40 of the Texas Administrative Code, the department may not withhold this information under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.

Although the department seeks to withhold the submitted information under section 552.108 of the Government Code, a specific statutory right of access overcomes general exceptions to disclosure in the Act. *See* Open Records Decision Nos. 623 at 3 (1994) (exceptions in the Act generally inapplicable to information that statutes expressly make public), 613 at 4 (1993) (exceptions in Act cannot impinge in statutory right of access to information), 451

(1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Act). Therefore, the department may not withhold the submitted information under section 552.108 of the Government Code. Consequently, to the extent the requestor has a right of access to the submitted information pursuant to section 749.2447(7) of title 40 of the Texas Administrative Code, the department must release the submitted information to this requestor. However, to the extent the requestor does not have a right of access to the information, the department must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.<sup>1</sup>

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,



Emily Buchanan  
Attorney  
Open Records Division

EB/eb

Ref: ID# 680331

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>1</sup>We note that because the requestor has a statutory right of access to the submitted information in this instance, the department must again seek a decision from this office if it receives another request for the same information from another requestor.