



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 15, 2017

Mr. Cristian Rosas-Grillet
Assistant City Attorney
City of Laredo
P.O. Box 579
Laredo, Texas 78042-0579

OR2017-26075

Dear Mr. Rosas-Grillet:

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# 684377 (PIR No. W008152-090817).

The Laredo Police Department (the "department") received a request for all information pertaining to a named individual. You state the department will release some information. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. Section 552.101 encompasses information protected by other statutes, including section 261.201 of the Family Code. Section 261.201(a) provides as follows:

¹Although you also raise sections 552.102 through 552.156 of the Government Code, you make no arguments to support these exceptions. Therefore, we assume you have withdrawn your claim that these sections apply to the submitted information. *See* Gov't Code §§ 552.301, .302.

[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). Upon review, we find the submitted information consists of information that was used or developed in an investigation under chapter 261, so as to fall within the scope of section 261.201 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 inform us the department has not adopted a rule governing the release of this type of information. Therefore, we find the submitted information is generally confidential pursuant to section 261.201 of the Family Code.

However, we note the requestor is a representative of the Office of Capital and Forensic Writs (the “OCFW”). Section 261.201(a) 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). Chapter 411 of the Government Code constitutes “applicable state law” in this instance. Section 411.1272 of the Government Code provides:

The [OCFW] and a public defender’s office are entitled to obtain from the [Department of Public Safety (“DPS”)] criminal history record information maintained by the [DPS] that relates to a criminal case in which an attorney compensated by the office of capital and forensic writs . . . has been appointed.

Gov’t Code § 411.1272. In addition, section 411.087(a) of the Government Code provides:

- (a) Unless otherwise authorized by Subsection (e), a person, agency, department, political subdivision, or other entity that is authorized by this subchapter or Subchapter E-1 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” (“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). We note the submitted information contains CHRI of the named individual. Accordingly, the requestor is authorized to obtain the CHRI in the information at issue from the department pursuant to sections 411.087(a)(2) and 411.1272 of the Government Code if it relates to a criminal case in which an attorney compensated by the OCFW is appointed, but only for purposes consistent with the Family Code. *See id.* §§ 411.087(a)(2), .1272; *see also* Fam. Code § 261.201(a).

We are unable to determine whether the requestor intends to use the CHRI of the named individual in the submitted information for purposes consistent with the Family Code. Therefore, if the department determines the submitted information relates to a criminal case in which an attorney compensated by the OCFW is appointed, and the department determines the requestor intends to use the CHRI in the submitted information for purposes consistent with the Family Code, then the department must (1) release the information that shows the type of allegations made and whether there was an arrest, information, indictment, detention, conviction, or other formal charges and their dispositions to the requestor and (2) withhold any remaining information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. If the department determines the information at issue does not relate to a criminal case in which an attorney compensated by the OCFW is appointed, or the department determines the requestor does not intend to use the CHRI in the submitted information for purposes consistent with the Family Code, then the department must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. *See* Fam. Code § 261.201(b)-(g) (listing entities authorized to receive section 261.201 information); Open Records Decision Nos. 655, 440 at 2 (1986) (construing 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 cursive script that reads "Britni Ramirez". The signature is written in black ink and is positioned above the printed name.

Britni Ramirez
Assistant Attorney General
Open Records Division

BR/sb

Ref: ID# 684377

Enc. Submitted documents

c: Requestor
(w/o enclosures)