



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 9, 2019

Ms. Kayla Landeros  
City Attorney  
City of Temple  
2 North Main Street, Suite 308  
Temple, Texas 76501

OR2019-28343

Dear Ms. Landeros:

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# 790389.

The City of Temple (the "city") received a request for all information pertaining to a named individual within a specified time period.<sup>1</sup> 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.

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 section 261.201(a) of the Family Code, which provides as follows:

[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:

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<sup>1</sup> You state the city sought and received clarification of the request. *See* Gov't Code § 552.222(b) (providing that if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when governmental entity, acting in good faith, requests clarification or narrowing of unclear or overbroad request for public information, ten-day period to request attorney general ruling is measured from date request is clarified or narrowed).

(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 was used or developed by the city's police department in an investigation under chapter 261. *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). Therefore, the information is within the scope of section 261.201 of the Family Code. Thus, the submitted information is generally confidential under section 552.101 of the Government Code in conjunction with 261.201(a) of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute).

However, the submitted information 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 pertains to the address of a prospective foster parent. *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 26 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* 26 T.A.C. § 749.2445(a); Hum. Res. Code § 42.042(a), (h)-(h-1) (executive commissioner 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* 26 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 26 of the Texas Administrative Code. *Id.* § 749.2471(1); *cf.* Hum. Res. Code § 42.0561 (providing in part 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 the department."). Section 749.2447(7) provides a child-placing agency must obtain, document, and assess, in part, the following information about a prospective foster home:

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

26 T.A.C. § 749.2447(7)(B)(i), (iii) (emphasis added); *see id.* § 749.2445(a); *see also* 40 T.A.C. § 745.21(8) (defining “child-placing agency”), (32) (defining “permit”), (33) (defining “permit holder”); *see also* 26 T.A.C. §§ 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 26 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* 26 T.A.C. §§ 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.

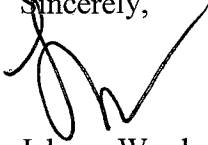
The requestor is seeking information involving a prospective foster parent at a specified address for the previous two years. Accordingly, we conclude the requestor has a right of access to the submitted information pursuant to section 749.2447(7) of title 26 of the Texas Administrative Code. However, 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. Thus, pursuant to section 749.2447(7) of title 26 of the Texas Administrative Code, the city may not withhold this information under section 552.101 in conjunction with section 261.201(a). Accordingly, the city must release the submitted information.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Jahanna Ward  
Assistant Attorney General  
Open Records Division

JW/be

Ref: ID# 790389

Enc. Submitted documents

c: Requestor  
(w/o enclosures)