



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

October 30, 2019

Ms. Brittaney Davis  
Assistant City Attorney  
City of Fort Worth  
200 Texas Street, 3rd Floor  
Fort Worth, Texas 76102-6311

OR2019-30722

Dear Ms. Davis:

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# 793781.

The Fort Worth Police Department (the "department") received a request for information pertaining to a specified incident. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public 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 made confidential by other statutes, such as section 261.201 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

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<sup>1</sup> We note, and you acknowledge, the department failed to comply with section 552.301 of the Government Code in requesting this decision. See Gov't Code § 552.301(b), (e). Nevertheless, because the section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will consider whether this exception applies to the submitted information. See *id.* §§ 552.007, .302, .352.

(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 relates to investigation of alleged or suspected child abuse conducted by the department. *See id.* §§ 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code); *see also 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). Accordingly, we find this information is within the scope of section 261.201(a) of the Family Code. Section 261.201(a) provides 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, chapter 411 of the Government Code constitutes “applicable state law.” We note the requestor is a representative of the Adult Protective Services Division of the Texas Department of Family and Protective Services (“DFPS”).

Section 411.114 of the Government Code provides, in pertinent part:

(a)(2) The [DFPS] shall obtain from the [Department of Public Safety (“DPS”)] criminal history record information [(“CHRI”)] maintained by the [DPS] that relates to a person who is:

...

(I) a person who is the subject of a report the [DFPS] receives alleging that the person has abused, neglected, or exploited a child, an elderly person, or a person with a disability, provided that:

(i) the report alleges the person has engaged in conduct that meets the statutory definition of abuse, neglect, or exploitation under Chapter 261, Family Code or Chapter 48, Human Resources Code; and

(ii) the person who is the subject of the report is not also the victim of the alleged conduct[.]

...

(4) Subject to Section 411.087, the [DFPS] is entitled to:

...

(B) obtain from any other criminal justice agency in this state [CHRI] maintained by that criminal justice agency that relates to a person described by Subdivision (2)[.]

Gov't Code § 411.114(a)(2)(I), (4)(B). CHRI consists of “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 generally id.* § 411.082(2). Thus, section 411.114 allows DFPS to obtain from a criminal justice agency CHRI concerning an individual who is the subject of a report of abuse or neglect of a child. *Id.* § 411.114(a)(2), (a)(4). Accordingly, the requestor, in this instance, is authorized to obtain CHRI from the department regarding the individual who is the subject of the information at issue. Consequently, the department must release the CHRI in the submitted information pursuant to section 411.114 of the Government Code but must withhold the remaining information at issue under section 552.101 of the Government Code 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 <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,



Patrick P. Mehaffy  
Assistant Attorney General  
Open Records Division

PPM/gw

Ref: ID# 793781

Enc. Submitted documents

c: Requestor  
(w/o enclosures)