



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

November 20, 2019

Mr. Thomas McMillian  
Assistant City Attorney  
City of Amarillo  
P.O. Box 1971  
Amarillo, Texas 79105-1971

OR2019-32895

Dear Mr. McMillian:

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# 797707 (PIR 19-2251).

The Amarillo Police Department (the "department") received a request for a specified police report. 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 public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code §552.101. This section encompasses information protected by other statutes. Section 261.201 of the Family Code provides, in part, as follows:

(a) [T]he following information is confidential, is not subject to public release under Chapter 552, Government Code, 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). The submitted information relates to an investigation of alleged or suspected child abuse or neglect 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 subject to chapter 261 of the Family Code. You do not indicate 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, we conclude the submitted information is confidential pursuant to section 261.201 of the Family Code and must generally be withheld under section 552.101 of the Government Code on that basis. *See id.* § 261.201(a). However, we note section 261.201(a) also provides information encompassed by subsection (a) may be disclosed “for purposes consistent with [the Family Code] and applicable federal or state law.” *See id.* Chapter 411 of the Government Code constitutes “applicable state law” in this instance.

We note the requestor is a representative of the Texas Department of Family and Protective Services (“DFPS”). Section 411.114(a) of the Government Code states, in pertinent part:

(2) [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) an alleged perpetrator in a report [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 applicable definition of abuse, neglect, or exploitation under Chapter 261, Family Code, or Chapter 48, Human Resources Code; and

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

...

(4) Subject to Section 411.087, [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) or (3).

Gov’t Code § 411.114(a)(2)(I), (4)(B). For purposes of section 411.114, 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 id.* § 411.082(2). Thus, these provisions may grant the DFPS investigator a right of access to CHRI in the information at issue. In this case, the requestor is a representative of the Child Protective Services Division of DFPS, but does not specifically state whether the subject of the submitted information is an alleged perpetrator in a report received by DFPS of abuse or neglect of a child. Thus, we are unable to conclude that section 411.114 of the Government Code gives the requestor a right of access to any of the submitted information, and we must rule conditionally. Therefore, if the subject of the submitted information is not an alleged perpetrator in a report received by DFPS of abuse or neglect of a child, the CHRI is not subject to release to the requestor under section 411.114, and the submitted information must be withheld in its entirety under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. However, if the subject of the submitted information is an alleged perpetrator in a report received by DFPS of abuse or neglect of a child, then the department must release the information that shows the type of allegation made and whether there was an arrest, information, indictment, detention, conviction, or other formal charges and their dispositions pursuant to section 411.114 of the Government Code, but must withhold the remaining information under section 552.101 of the Government Code in conjunction with section 261.201(a) 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,



Paige Lay  
Assistant Attorney General  
Open Records Division

PL/rm

Ref: ID# 797707

Enc. Submitted documents

c: Requestor  
(w/o enclosures)