



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 24, 2020

Ms. Charla Thomas
Deputy City Attorney
City of Temple
2 North Main Street, Suite 308
Temple, Texas 76501

OR2020-11735

Dear Ms. Thomas:

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# 825111.

The Temple Police Department (the "department") received a request for information pertaining to specified incidents that involves a named individual. The department claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception 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. This section 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:

- (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 department asserts the submitted information was used or developed in an investigation under chapter 261. *See id.* §§ 101.003(a) (defining “child” for purposes of section 261.201), 261.001(1) (defining “abuse” for purposes of section 261.201). Upon review, we find the information is within the scope of section 261.201 of the Family Code. The department does not indicate it has adopted a rule that governs the release of this type of information. Therefore, we assume no such rule exists. Accordingly, the submitted information is generally confidential pursuant to section 261.201(a) of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute).

However, the requestor is with the Texas Department of Insurance (“TDI”). Section 261.201 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). Chapter 411 of the Government Code constitutes “applicable state law” in this instance. Section 411.106 of the Government Code provides TDI is entitled to obtain criminal history record information (“CHRI”) maintained by the Texas Department of Public Safety (“DPS”) that relates to a person who is an applicant for a license, permit, certificate of authority, certificate of registration, or other authorization issued by TDI to engage in an activity regulated under the Insurance Code; or a corporate officer of an insurance company regulated by TDI. Gov’t Code §§ 411.106(a). Section 411.087 of the Government Code provides an agency that is entitled to obtain CHRI from DPS is also authorized to “obtain from any other criminal justice agency in this state [CHRI] maintained by that criminal justice agency[.]” *Id.* § 411.087. 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). Thus, when read together, sections 411.087 and 411.106 of the Government Code may grant TDI a right of access to CHRI in the submitted information.

We are unable to determine whether the named individual is either an applicant for a license, permit, certificate of authority, certificate of registration, or other authorization issued by TDI to engage in an activity regulated under the Insurance Code, or a corporate officer of an insurance company regulated by TDI. Thus, we must rule conditionally. If (1) the named individual is an applicant for a license, permit, certificate of authority, certificate of registration, or other authorization issued by TDI to engage in an activity regulated under the Insurance Code, or a corporate officer of an insurance company regulated by TDI and (2) the department determines release of the information at issue is consistent with the purposes of the Family Code, then the department must release the named individual’s CHRI pursuant to sections 411.087 and 411.106 of the Government Code, but withhold the remaining information under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. However, if either (1)

the named individual is not a person who is an applicant for a license, permit, certificate of authority, certificate of registration, or other authorization issued by TDI to engage in an activity regulated under the Insurance Code, or a corporate officer of an insurance company regulated by TDI or (2) the department determines release of the CHRI is not consistent with the purposes of 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(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,

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/be

Ref: ID# 825111

Enc. Submitted documents

c: Requestor
(w/o enclosures)