



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 25, 2020

Ms. Sally Ortiz
Open Records Assistant
Plano Police Department
P.O. Box 860358
Plano, Texas 75086-0358

OR2020-21328

Dear Ms. Ortiz:

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# 842567 (ORR# P009213).

The Plano Police Department (the "department") received a request for information pertaining to a specified arrest of a named individual. The department claims the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the claimed exceptions 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). Upon review, we find 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). Thus, 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. Given that assumption, the department must generally withhold the submitted information under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.¹ *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute).

However, the requestor is a representative of the Plano Independent School District (the “district”). Section 261.201 provides information encompassed by section 261.201(a) may be disclosed “for purposes consistent with [the Family Code] and applicable federal or state law.” Gov’t Code § 261.201(a). Section 22.083 of the Education Code authorizes a school district to obtain criminal history record information (“CHRI”) related to an employee of the district from a law enforcement agency. *See* Educ. Code § 22.083(a)(1), (a-1)(2). Thus, the district may have a right of access to CHRI pursuant to section 22.083. 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.” Gov’t Code § 411.082(2); *see id.* §§ 411.087(a)(2) (agency entitled to obtain CHRI from Texas Department of Public Safety (“DPS”) is also authorized to “obtain from any other criminal justice agency in this state [CHRI] maintained by that [agency,]” .097(b) (school district is entitled to obtain CHRI related to district employee that district is required or authorized to obtain under Educ. Code ch. 22 subch. C from DPS); *cf. Brookshire v. Houston Indep. Sch. Dist.*, 508 S.W.2d 675, 678-79 (Tex. Civ. App.—Houston [14th Dist.] 1974, no writ) (when legislature defines term in one statute and uses same term in relation to same subject matter in latter statute, later use of term is same as previously defined).

The district does not inform us whether the named individual is a district employee or release of the CHRI at issue is consistent with the Family Code. Therefore, we must rule conditionally. If the named individual is a district employee and the department determines release of the CHRI is consistent with the Family Code, then the department must release the CHRI pursuant to section 22.083 of the Education 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. *See* Open Records Decision No. 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Act). If the named individual is not a district employee or the department determines the release of the CHRI would not be for a purpose 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(a) of the Family Code. *See* Attorney General Opinions DM-353 at 4 n.6 (1995) (interagency transfer of information prohibited where confidentiality statute enumerates specific entities to which release of information is authorized, and potential receiving governmental body is not among statute’s

¹ As our ruling is dispositive, we do not address the other arguments of the department to withhold this information.

enumerated entities), JM-590 at 4-5 (1986); Fam. Code § 261.201(b)-(g), (k) (listing entities authorized to receive section 261.201 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,

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/rm

Ref: ID# 842567

Enc. Submitted documents

c: Requestor
(w/o enclosures)