



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 23, 2020

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

OR2020-23967

Dear Ms. Henry:

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# 846820 (ORR# P009646).

The Plano Police Department (the "department") received a request for all calls involving two named individuals at a specified address during a specified time period. 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 exceptions the department claims and reviewed the submitted representative sample of information.<sup>1</sup>

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 section 261.201 of the Family Code, which 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:

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<sup>1</sup> We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

(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 was used or developed in an investigation of alleged or suspected child abuse or neglect conducted by the department. *See 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), 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code). Accordingly, we find this information is subject to chapter 261 of the Family Code. The department does not indicate it has adopted a rule that governs the release of this type of information and therefore we assume no such regulation exists. Given that assumption, we conclude the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute).

Nevertheless, 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. Pursuant to rules promulgated by DFPS under chapter 42 of the Human Resources Code, child-placing agencies are required to 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 749.2470, 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.* § 749.2470(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 [DFPS].”). 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 also id.* §§ 745.21(8) (defining “child-placing agency”), (32) (defining “permit”), (33) (defining “permit holder”), 749.41(1) (defining “you” as applicant or permit holder), .43 (words and terms in chapter 749 have meanings assigned under section 745.21), 749.2445(a). Thus, sections 749.2447(7) and 749.2470 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. §§ 749.2470, .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 749.2470.

The requestor is seeking information involving prospective foster parents at their residence for the previous two years. Accordingly, the requestor generally has a right of access to the submitted information pursuant to section 749.2447(7) of title 26 of the Texas Administrative Code. Although the department also seeks to withhold the information under section 552.108 of the Government Code, we note a specific statutory right of access overcomes general exceptions to disclosure in the Act. *See* Open Records Decision No. 623 at 3 (1994) (exceptions in the Act generally inapplicable to information that statutes expressly make public), 613 at 4 (1993) (exceptions in Act cannot impinge in statutory access to information), 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Act). Therefore, pursuant to section 749.2447(7) of title 26 of the Texas Administrative Code, the department may not withhold any portion of the submitted information under section 552.108 of the Government Code. Further, 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 submitted information 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 department may not withhold the submitted information under section 552.101 in conjunction with section 261.201(a) of the Family Code. The department must release the submitted information to this requestor pursuant to section 749.2447(7) of title 26 of the Texas Administrative 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,

Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/jxd

Ref: ID# 846820

Enc. Submitted documents

c: Requestor  
(w/o enclosures)