



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 8, 2020

Ms. Amy Bass-Domel
Open Records
Williamson County Sheriff's Office
508 South Rock Street
Georgetown, Texas 78626

OR2020-25420

Dear Ms. Bass-Domel:

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# 847719.

The Williamson County Sheriff's Office (the "sheriff's office") received two requests from the same requestor for information pertaining to a specified incident, excluding the identifying information of the victim. You state you will withhold dates of birth pursuant to Open Records Letter No. 2016-21706 (2016).¹ You claim the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the requestor excludes identifying information of the victim from the scope of the request. Accordingly, this type of information is not responsive to the request for information. This ruling does not address the public availability of any information that is not responsive to the request and the sheriff's office is not required to release that information in response to the request.

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 information protected by other statutes, such as section 261.201 of the Family Code, which provides, in relevant part, the following:

¹ Open Records Letter No. 2016-21706 is a previous determination issued to the sheriff's office authorizing it to withhold the dates of birth of public citizens under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a decision from this office.

(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 [chapter 261 of the Family Code] 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 [chapter 261 of the Family Code] or in providing services as a result of an investigation.

Fam. Code § 261.201(a). The responsive information was used or developed in an investigation by the sheriff's office of alleged or suspected child abuse or neglect and falls within the scope of section 261.201 of the Family Code. *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). The sheriff's office 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 find the responsive information is generally confidential under section 261.201(a). Section 261.201(a), however, also 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).

Chapter 411 of the Government Code constitutes "applicable state law" in this instance. The requestor is an Enforcement Investigator with the Texas Department of Licensing and Regulation ("TDLR"). Sections 411.093 and 411.122 of the Government Code both provide TDLR 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 issued by TDLR. Gov't Code §§ 411.093(a), .122(a)(1), .122(d)(10). 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, 411.093, and 411.122 of the Government Code may grant TDLR a right of access to CHRI in the responsive information.

The requestor states he is conducting a criminal background check on an individual who has applied for licensure with TDLR. Accordingly, if the sheriff's office determines release of the information at issue is consistent with the purposes of the Family Code, then the requestor has a right of access to CHRI about the individual pursuant to

sections 411.087, 411.093, and 411.122 of the Government Code. In that instance, the sheriff's office must release the information that shows the types of allegations made and whether there was an arrest, information, indictment, detention, conviction, or other formal charges and their dispositions, and must withhold the remaining responsive information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. However, if the sheriff's office determines release of the CHRI is not consistent with the purposes of the Family Code, then the sheriff's office must withhold the responsive information in its entirety under section 552.101 in conjunction with section 261.201.

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,

Meagan Hunter
Assistant Attorney General
Open Records Division

MH/jm

Ref: ID# 847719

Enc. Submitted documents

c: Requestor
(w/o enclosures)