



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 26, 2022

Ms. Jessika Williams
Assistant City Attorney
City of Fort Worth
200 Texas Street, 3rd Floor
Fort Worth, Texas 76102-6311

OR2022-11837

Dear Ms. Williams:

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# 943622 (ORR# E001411).

The Fort Worth Police Department (the "department") received a request for a specified incident report. 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."¹ 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

¹ The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987).

(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. Accordingly, the submitted information is generally confidential pursuant to section 261.201. However, section 261.201(a) 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.

Section 411.1285(a-1) of the Government Code reads as follows:

A domestic relations office created under Chapter 203, Family Code, or a child custody evaluator appointed under Chapter 107, Family Code, is entitled to obtain from the [Texas Department of Public Safety (the “DPS”)] criminal history record information [(“CHRI”)] that relates to a person involved in a child custody evaluation under Chapter 107, Family Code, in which the domestic relations office or child custody evaluator has been appointed to conduct the child custody evaluation.

Gov’t Code § 411.1285(a-1); *see* Fam. Code chs. 107 (governing child custody evaluations), 203 (governing administration of domestic relations offices). Additionally, section 411.087(a)(2) of the Government provides the following:

(a) [A] person, agency, department, political subdivision, or other entity that is authorized by this subchapter or Subchapter E-1 to obtain from [DPS CHRI] maintained by [DPS] that relates to another person is authorized to:

...

(2) obtain from any other criminal justice agency in this state [CHRI] maintained by that criminal justice agency that relates to that person.

Gov’t Code § 411.087(a)(2). CHRI means “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.” *Id.* § 411.082(2). Thus, a child custody evaluator appointed under chapter 107 of the Family Code may receive CHRI if the information relates to a person involved in a child custody evaluation under chapter 107 of the Family Code in which the child

custody evaluator has been appointed to conduct the child custody evaluation. *See id.* § 411.1285(a-1)); *see also* Open Records Decision No. 655 (1997) (discussing limitations on release of CHRI).

The requestor is a representative of the Domestic Relations Office for Tarrant County. However, she does not state whether she is performing a court-ordered child custody evaluation regarding the offender at issue. Therefore, we must rule conditionally. If the department determines the requestor is performing a court-ordered child custody evaluation regarding the offender at issue and release of the CHRI of the offender is consistent with the Family Code, then the department must release the submitted CHRI pursuant to sections 411.087 and 411.1285(e-1) 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. *See* Fam. Code § 107.103(d) (court ordered child custody evaluation must be performed by individual qualified under Fam. Code § 107.104); *see also id.* § 107.104(b)(3) (individual employed by or under contract with domestic relations office is qualified to conduct child custody evaluation). However, if the department determines either the requestor is not performing a court-ordered child custody evaluation regarding the offender at issue or release of the CHRI of the offender is not 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* Fam. Code § 261.201(b)-(g), (k), (1) (listing entities authorized to receive section 261.201 information); *see also* Open Records Decision No. 440 at 2 (1986); 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 where potential receiving governmental body is not among statute's enumerated entities), JM-590 at 4-5 (1986).

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/eb

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Enc. Submitted documents

c: Requestor
(w/o enclosures)