



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 11, 2010

Ms. Jerris Penrod Mapes
Assistant City Attorney
Killeen Police Department
402 North Second Street
Killeen, Texas 76541-5298

OR2010-12159

Dear Ms. Mapes:

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# 390171 (KPD ID# W003750).

The Killeen Police Department (the "department") received a request for a specified report. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the information you submitted.

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 exception encompasses information that other statutes make confidential. You claim section 552.101 in conjunction with section 261.201 of the Family Code, which provides in part:

(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:

(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); *see id.* § 261.001(1) (defining “abuse” for purposes of Fam. Code ch. 261). You contend that the submitted information is confidential under section 261.201. We find that the information in question was used or developed in an investigation of alleged or suspected child abuse under chapter 261 of the Family Code, so as to fall within the scope of section 261.201(a)(2). As you do not indicate that the department has adopted a rule that governs the release of this type of information, we assume that no such rule exists. Given that assumption, we conclude that the submitted information is generally confidential under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (addressing predecessor statute).

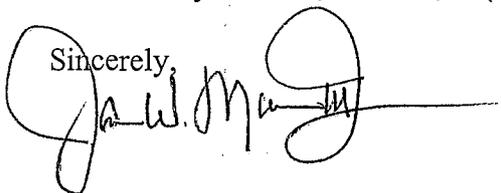
Section 261.201(a) provides, however, that information encompassed by section 261.201(a) may be disclosed “for purposes consistent with [the Family Code] and applicable federal or state law.” Fam. Code § 261.201(a). In this instance, the requestor identifies himself as a peace officer and investigator for the Dallas Independent School District (the “district”). As such, the requestor may have a right of access to some of the submitted information pursuant to section 22.083 of the Education Code. Section 22.083 authorizes a school district to obtain criminal history record information (“CHRI”) that relates to an employee of the district from a law enforcement agency. *See* Educ. Code § 22.083(a)(1), (a-1)(2). 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 also id.* §§ 411.097(b) (school district is entitled to obtain from Texas Department of Public Safety (the “DPS”) CHRI relating to district employee that district is required or authorized to obtain under Educ. Code ch. 22 subch. C), .087(a)(2) (agency entitled to obtain CHRI from DPS also is authorized to “obtain from any other criminal justice agency in this state [CHRI] maintained by that [agency].” *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). In this instance, the requestor states that the submitted report involves an employee of the district. Therefore, if the department determines that release of the CHRI would be for a purpose consistent with the Family Code, then the department must release information to this requestor from the submitted report that shows the type of allegation made and whether there was an arrest, information, indictment, detention, conviction, or other formal charges and their dispositions. *See* Open Records Decision No. 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Public Information Act). In that event, the department must withhold the rest of the submitted information under section 552.101 of the

Government Code in conjunction with section 261.201(a) of the Family Code. But if the department determines that the release of CHRI would not be for a purpose consistent with the Family Code, then the department must withhold all of the submitted information under section 552.101 in conjunction with section 261.201(a). *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 enumerated entities), JM-590 at 4-5 (1986); Fam. Code § 261.201(b)-(g) (listing entities authorized to receive section 261.201 information).¹

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 http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/em

Ref: ID# 390171

Enc: Submitted documents

c: Requestor
(w/o enclosures)

¹As we are able to make these determinations, we need not address your other arguments against disclosure.