



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 24, 2012

Ms. Linda Pemberton  
Paralegal  
City of Killeen  
P.O. Box 1329  
Killeen, Texas 76540

OR2012-17018

Dear Ms. Pemberton:

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# 469075 (No. W008728).

The Killeen Police Department (the "department") received a request for information related to a specified arrest involving a named individual. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions 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 made confidential by other statutes. You contend the submitted information is confidential under 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 [the Family 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). We find the information at issue 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). *See id.* § 261.001(1)(E) (defining “abuse,” for purposes of Fam. Code ch. 261, as including offense of indecency with a child under Penal Code § 21.11); Penal Code § 21.11(a) (defining child as person younger than 17 years of age). As you do not indicate the department has adopted a rule that governs the release of this type of information, we assume no such rule exists. Given that assumption, we conclude the submitted information is generally confidential under section 261.201(a) of the Family Code. *See Open Records Decision No. 440 at 2 (1986)* (addressing predecessor statute).

In this instance, however, the requestor is a representative of the Fort Worth Independent School District (the “district”). Section 261.201 provides 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). 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.* §§ 411.097(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 Texas Department of Public Safety (the “DPS”)), .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).

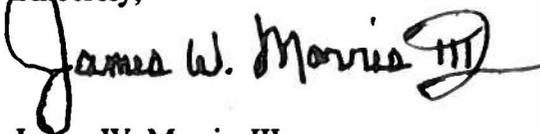
We understand the requestor seeks access to information related to an employee of the district. Therefore, if the department determines the release of CHRI would be for a purpose consistent with the Family Code, then the department must release information from the submitted records to this requestor 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 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 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), (l), (k) (listing entities authorized to receive section 261.201 information). As we are able to make these determinations, we need not address your claim under section 552.108 of the Government 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 [http://www.oag.state.tx.us/open/index\\_orl.php](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/bhf

Ref: ID# 469075

Enc: Submitted documents

c: Requestor  
(w/o enclosures)