



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 28, 2016

Mr. James Kopp
Assistant City Attorney
Office of the City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR2016-16966

Dear Mr. Kopp:

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# 620538 (COSA File# W122724).

The City of San Antonio (the "city") received a request for information pertaining to two specified offenses. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note you have not submitted any information responsive to the request for information pertaining to a theft offense. To the extent any information responsive to this portion of the request existed on the date the city received the request, we assume the city has released it. If the city has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

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 made confidential by other statutes, such as section 261.201 of the Family Code, which provides, in relevant part:

(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 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). Upon review, we find the submitted information was used or developed in an investigation conducted by the city's police department under chapter 261 of the Family Code, so as to fall within the scope of section 261.201(a). *See id.* §§ 101.003(a) (defining "child" for purposes of section 261.201), 261.001(1), (4) (defining "abuse" and "neglect" for purposes of section 261.201 of Family Code). Therefore, we find the responsive information is generally confidential under section 261.201(a) of the Family Code. 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).

We note chapter 411 of the Government Code constitutes "applicable state law" in this instance, and the requestor is an investigator with the Texas Department of Licensing and Regulation (the "TDLR"). Sections 411.093 and 411.122 of the Government Code both provide the 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 the 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 the TDLR a right of access to CHRI in the submitted information.

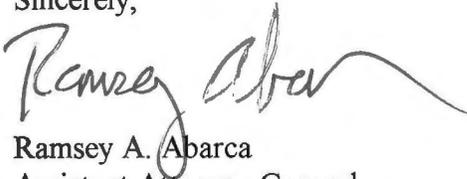
In this instance, the requestor states she is conducting a criminal background check on an individual who has applied for licensure with the TDLR. Accordingly, if the city determines release of the information at issue is consistent with the purposes of the Family Code, then, pursuant to sections 411.087, 411.093, and 411.122 of the Government Code, the city 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. In that event, the city must withhold the remaining responsive information under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. However, if the city determines release of the information is not consistent with the purposes of the Family Code, then it must withhold the responsive information in its entirety under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/bhf

Ref: ID# 620538

Enc. Submitted documents

c: Requestor
(w/o enclosures)