



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 2, 2016

Ms. Donna L. Clarke
Assistant Criminal District Attorney
Civil Division
Lubbock County Criminal District Attorney's Office
P.O. Box 10536
Lubbock, Texas 79408-3536

OR2016-24370

Dear Ms. Clarke:

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# 632770 (Ref. No. 145615).

The Lubbock County Sheriff's Office (the "sheriff's office") received a request for a specified incident report. You claim the submitted 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 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." Gov't Code § 552.101. This section encompasses information protected by other statutes. Section 261.201 of the Family Code provides, in relevant part, as follows:

(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). You state the submitted information consists of a report of alleged or suspected child abuse or neglect. *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). You do not indicate the sheriff’s office has adopted any rules that would permit the release of the submitted information. Accordingly, we find the submitted information is subject to chapter 261 of the Family Code. Given that assumption, we conclude the submitted information is generally confidential under section 261.201 of the Family Code.

However, section 261.201 provides information encompassed by subsection (a) may be disclosed “for purposes consistent with [the Family Code] and applicable federal or state law.” Fam. Code § 261.201(a). Subchapter E of chapter 264 of the Family Code concerns the establishment and duties of children’s advocacy centers. *See id.* §§ 264.401-.411. Section 264.405 of the Family Code directs children’s advocacy centers to provide services for victims of child abuse and their families. *Id.* § 264.405. Furthermore, section 264.408(c) of the Family Code provides “a law enforcement agency . . . may share with a [children’s advocacy] center information that is confidential under Section 261.201 as needed to provide services” under chapter 264 of the Family Code. *Id.* § 264.408(c).

In this instance, the requestor is a representative of Court Appointed Special Advocates of the South Plains (“CASA”). However, the requestor does not state whether she seeks the requested report in order to provide services under chapter 264 of the Family Code. Therefore, we must rule conditionally. If the sheriff’s office determines the information is needed to provide services under chapter 264 of the Family Code, then the sheriff’s office must release the submitted information to this requestor pursuant to section 264.408(c).¹ We note information shared with or provided to CASA under section 264.408(c) retains its confidentiality under section 261.201. *See id.* If, however, the sheriff’s office determines the information is not needed for services under chapter 264, then it may not release the

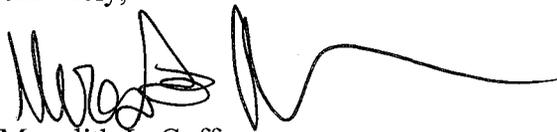
¹Although you also raise section 552.108 of the Government Code for the submitted information, the requestor’s specific statutory right of access prevails over the general exceptions in the Act. *See Open Records Decision Nos. 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information), 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Act).* Further, although you also argue the submitted information is protected by the right to privacy, the requestor’s statutory right of access prevails over the doctrine of common-law privacy. *See Collins v. Tex Mall, L.P.*, 297 S.W.3d 409, 415 (Tex. App.—Fort Worth 2009, no pet.) (statutory provision controls and preempts common law only when statute directly conflicts with common-law principle); *CenterPoint Energy Houston Elec. LLC v. Harris County Toll Rd. Auth.*, 436 F.3d 541, 544 (5th Cir. 2006) (common law controls only where there is no conflicting or controlling statutory law).

information on that ground, and the sheriff's office must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 261.201 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,

A handwritten signature in black ink, appearing to read 'Meredith L. Coffman', with a long horizontal flourish extending to the right.

Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/bw

Ref: ID# 632770

Enc. Submitted documents

c: Requestor
(w/o enclosures)