



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 18, 2010

Ms. Michelle L. Villarreal
Assistant City Attorney
City of Waco
P.O. Box 2570
Waco, Texas 76702-2570

OR2010-15781

Dear Ms. Villarreal:

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# 397217 (City of Waco Reference No. LGL-10-1093).

The Waco Police Department (the "department") received a request for an arrest warrant and other related documentation pertaining to a specified arrest of a named individual. You claim that 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 public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses section 261.201 of the Family Code, which provides as follows:

(a) Except as provided by Section 261.203, the 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); *see id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of Family Code ch. 261). Upon review, we find the submitted information pertains to an investigation of alleged or suspected child abuse or neglect and is, therefore, within the scope of section 261.201(a). Thus, this information is generally confidential under section 261.201 of the Family Code. We note, however, in this instance the requestor is with the Texas Youth Commission (the “commission”). Thus, section 411.1141 of the Government Code is applicable to the submitted information. Section 411.1141(a) of the Government Code provides that the commission “is entitled to obtain criminal history record information [(“CHRI”)] maintained by the [Texas Department of Public Safety (“DPS”)] that relates to a person described by section 61.0357(b), Human Resources Code.” Gov’t Code § 411.1141(a). Section 61.0357(b) of the Human Resources Code states “[t]he executive commissioner shall review the national [CHRI], state [CHRI] maintained by [DPS], and previous and current employment references of each person who . . . is an employee, contractor, volunteer, ombudsman, or advocate working for the commission or working in a commission facility or a facility under contract with the commission[.]” Hum. Res. Code § 61.0357(b)(1). Likewise, under section 411.087 of the Government Code, an agency that is entitled to obtain CHRI from the DPS is also authorized to “obtain from any other criminal justice agency in this state [CHRI] maintained by that criminal justice agency[.]” Gov’t Code § 411.087(a)(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.” *Id.* § 411.082(2). We note that the named individual is listed as the suspect in the submitted report, and the requestor states this individual is a commission employee. Thus, the requestor is authorized to obtain CHRI from the department. Consequently, the department must release the information that shows the type of allegation made and whether there was an arrest, information, indictment, detention, conviction, or other formal charges and their dispositions, but must withhold the remaining information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.¹ *See* Open Records Decision No. 451 (1986) (specific statutory right of access provisions overcome general exceptions

¹We note that because the requestor has a special right of access to this information in this instance, the department must again seek a decision from this office if it receives another request for the same information from another requestor.

to disclosure under the Act). As our ruling is dispositive, we need not address your remaining argument against disclosure.

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,



Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/em

Ref: ID# 397217

Enc. Submitted documents

c: Requestor
(w/o enclosures)