



**THE ATTORNEY GENERAL
OF TEXAS**

November 6, 1986

**JIM MATTOX
ATTORNEY GENERAL**

Ms. Nanette G. Williams
Assistant City Attorney
2 Civic Center Plaza
El Paso, Texas 79999

Open Records Decision No. 448

Re: Whether the city of El Paso
must provide home addresses of a
public employee to the Child Support
Enforcement Bureau of another state

Dear Ms. Williams:

You state that the Child Support Bureau of another state has requested information from the city of El Paso about one of its employees. The city has provided the employee's social security number, birthdate, dates of employment and work address. The city has refused to release the employee's home address because he has exercised his option under section 3A of article 6252-17a, V.T.C.S., to deny public access to information relating to his home address. This information is not subject to disclosure under the Open Records Act. See V.T.C.S. art. 6252-17a, §3(a)(17). The Child Support Enforcement Bureau asserts that Public Law 93-647, codified at 42 U.S.C. §651 et seq., gives it a right to this information which prevails over the Texas Open Records Act. Accordingly, you request our decision as to the availability of this information.

A close examination of the program authorized by Public Law 93-647 is necessary to ascertain the duty of the city of El Paso in this case. Public Law 93-647 authorizes federal funding for the purpose of enforcing the support obligations owed by absent parents to their children, locating absent parents, establishing paternity, and obtaining child and spousal support. 42 U.S.C. §651. Provision is made for parent locator services at the federal and state level. 42 U.S.C. §§652, 653. The Secretary of the Department of Health and Human Services is required to establish a Parent Locator Service at the federal level, to enable authorized persons to obtain information on the whereabouts of an absent parent, when the information is to be used to locate the parent to enforce a support obligation against him. 42 U.S.C. §653(a).

A state which wishes to receive federal assistance for programs carrying out the objectives of Public Law 93-647 must have a state plan approved by the federal Department of Health and Human Services. 42 U.S.C. §652(a). The state of Texas has an approved state plan, submitted by and agreed to by the office of the attorney general. The Texas Attorney General's Office is

the state agency designated to administer a state-wide plan for child support to provide child support collection, parent locator, and paternity determination services that will enable it and the Texas Department of Human Resources to participate in programs established by federal law.

Human Res. Code §76.001; see also Human Res. Code §§76.002- 76.008.

The state plan must, among other requirements,

(8) provide that the agency administering the plan will establish a service to locate absent parents utilizing --

(A) all sources of information and available records, and

(B) the Parent Locator Service in the Department of Health and Human Services;

(9) provide that the State will, in accordance with standards prescribed by the Secretary, cooperate with any other State --

. . . .

(B) in locating an absent parent residing in the State (whether or not permanently) against whom any action is being taken under a program established under a plan approved under this part [42 U.S.C.S. §§651 et seq.] in another State. . . . (Emphasis added).

42 U.S.C. §654. These requirements are given more definition in the Code of Federal Regulations:

The State plan shall provide as follows:

(a) The IV-D agency [State agency responsible for administering the State plan] shall establish a State PLS [Parent Locator Service] using:

(1) All relevant sources of information and records available in the State, and in other States as appropriate; and

(2) The Federal PLS of the Department of Health and Human Services. . . .

45 C.F.R. §302.35.

In addition,

[t]he State plan shall provide that the State will cooperate with any other State:

. . . .

(b) In locating an absent parent who is present in the State and against whom any action is being taken under a IV-D program in any other State. . . .

45 C.F.R. §302.36.

Texas has established a parent locator service pursuant to section 77.001 of the Human Resources Code. The approved state plan for Texas states that the Attorney General's Office "has established, will maintain and operates a parent locator service in accordance with 45 C.F.R. §302.35." Texas State Plan for Support Collection and Establishment of Paternity under Title IV-D of the Social Security Act, page 2.7-1. The state plan also provides that:

The State cooperates with any other State in accordance with 45 C.F.R. §302.36.

Id. at 2.6-1.

The Child Support Enforcement Bureau addressed its request to the city of El Paso, a political subdivision of this state. The only provision in the state plan relevant to this request is the provision that "[t]he State cooperates with any other State in accordance with 45 C.F.R. §302.36." Id. The generalized duty to cooperate does not expressly require a Texas political subdivision to supply specific information to another state. The quoted language may be contrasted with the express statutory duty of the federal Parent Locator Service to provide authorized persons the most recent address of an absent parent, if such information

(1) is contained in any files or records maintained by the Secretary or by the Department of Health and Human Services; or

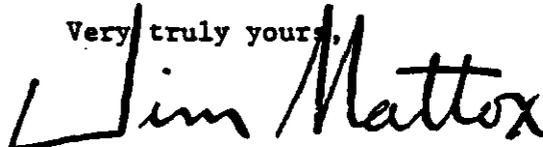
(2) is not contained in such files or records, but can be obtained by the Secretary, under the authority conferred by subsection (e) of this section, from any other department, agency, or instrumentality of the United States or of any State. (Emphasis added).

42 U.S.C. §653(b). Under subsection (e), the Secretary of Health and Human Resources must undertake to provide a home address from any

department, agency, or instrumentality of the United States or any state. 42 U.S.C. §653(e)(1). Federal departments, agencies, and instrumentalities have a specific duty to transmit such information to the Secretary, but no such duty is imposed on state departments, agencies, and instrumentalities. 42 U.S.C. §653(e)(2).

No provision of the state plan, federal law, or federal regulations gives the requesting state a right to obtain employee information from a political subdivision in Texas. The requesting state must therefore proceed under the Texas Open Records Act, and no provision of state or federal law excuses the city of El Paso from complying with the section 3A confidentiality provision of that Act. The city of El Paso has cooperated with the requesting state to the extent permitted by Texas law. Accordingly, you have correctly refused access to the individual's home address.

Very truly yours,

A handwritten signature in black ink that reads "Jim Mattox". The signature is written in a cursive style with a large, sweeping initial "J".

J I M M A T T O X
Attorney General of Texas .

JACK HIGHTOWER
First Assistant Attorney General

MARY KELLER
Executive Assistant Attorney General

RICK GILPIN
Chairman, Opinion Committee

Prepared by Susan L. Garrison
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