



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 12, 2009

Ms. Eileen McPhee
City Attorney for City of Georgetown
Carls, McDonald, & Darymple, L.L.P.
Barton Oaks Plaza 2
901 South Mopac Expressway
Austin, Texas 78746

OR2009-03309

Dear Ms. McPhee:

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# 337648 (CMCD ID# 1995).

The Georgetown Police Department (the "department"), which you represent, received a request for police reports regarding a named individual. You claim that 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.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses section 261.201 of the Family Code, which provides in part:

- (a) The 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 claim that the submitted report is confidential under section 261.201 of the Family Code. Upon review, we find the report relates to an investigation of child abuse or neglect conducted under chapter 261. Thus, this incident report is within the scope of section 261.201 of the Family Code and must generally be kept confidential. However, section 261.201 also provides that information encompassed by subsection (a) may be disclosed “for purposes consistent with [the Family Code] and applicable federal or state law.” *Id.*

We note that chapter 411 of the Government Code constitutes “applicable state law” in this instance. Section 411.1285(a) of the Government Code provides that “[a] domestic relations office created under Chapter 203, Family Code, is entitled to obtain from the [Department of Public Safety] criminal history record information that relates to a person who is a subject of a social study under Subchapter D, Chapter 107, Family Code.”¹ See Gov’t Code § 411.1285(a). Under Chapter 107 of the Family Code, a social study may be ordered by a district court to study “the circumstances and condition of the child and of the home of any person requesting managing conservatorship or possession of the child.” Fam. Code § 107.051(a). Section 411.087(a) of the Government Code allows a domestic relations office conducting a social study pursuant to section 107.051 of the Family Code to obtain criminal history information relevant to the social study. Section 411.087(a) of the Government Code provides in pertinent part:

(a) [a] person, agency, department, political subdivision, or other entity that is authorized by this subchapter to obtain from the [Department of Public Safety] criminal history record information maintained by the [Department of Public Safety] that relates to another person is authorized to:

...

(2) obtain from any other criminal justice agency in this state criminal history record information maintained by that criminal justice agency that relates to that person.

¹A “domestic relations office” is defined as “a county office that serves families, county departments, and courts to ensure effective implementation of this title.” Fam. Code § 203.001(2).

Gov't Code § 411.087(a)(2). We note that "criminal history record information" 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, the information at issue contains "criminal history record information." However, a domestic relations office that receives criminal history record information from a criminal justice agency pursuant to section 411.087(a)(2) may only receive such information for purposes of conducting a social study under subsection D, chapter 107 of the Family Code. *See id.* §§ 411.083(c), .087(b); *see also* Open Records Decision No. 655 (1997) (discussing limitations on release of criminal history record information).

The requestor lists himself as a Guardian ad Litem from the Domestic Relations Office of the Travis County Juvenile Probation Department. If the department determines that the requestor is conducting a social study under chapter 107 of the Family Code and that disclosure of the submitted information is consistent with the Family Code, then the department must make available to the requestor information that shows identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal 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). With the exception of this information, the department must withhold the remaining submitted information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

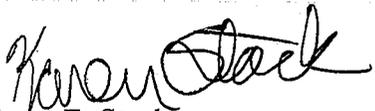
However, if the department determines that the requestor does not intend to use criminal history record information from the submitted information for the purpose of conducting a social study under chapter 107 or that disclosure of the information is not consistent with the Family Code, the department must withhold the submitted information in its entirety pursuant to section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. *See* Fam. Code § 261.201(b)-(g) (listing entities authorized to receive 261.201 information); *see also* Attorney General Opinions DM-353 at 4 n. 6 (1995) (finding interagency transfer of information prohibited where confidentiality statute enumerates specific entities to which release of information is authorized and where potential receiving governmental body is not among statute's enumerated entities), JM-590 at 4-5 (1986); *see also* Open Records Decision No. 440 at 2 (1986) (construing predecessor statute).

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 at (512) 475-2497.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen Stack". The signature is written in a cursive, somewhat stylized font.

Karen E. Stack
Assistant Attorney General
Open Records Division

KES/eb

Ref: ID# 337648

Enc. Submitted documents

c: Requestor
(w/o enclosures)