



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 2, 2009

Ms. Teresa J. Brown  
Senior Open Records Assistant  
Plano Police Department  
P.O. Box 860358  
Plano, Texas 75086-0358

OR2009-07490

Dear Ms. Brown:

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# 344780.

The Plano Police Department (the "department") received a request for information pertaining to two named individuals since 2000. You state that you have released some of the requested information. You claim that some of 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 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(a) of the Family Code provides as follows:

(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 indicate that portions of submitted information were used or developed in investigations of alleged child abuse or neglect. Upon review of your representations and the information at issue, we find that the information we have marked is within the scope of section 261.201 of the Family Code. *See id.* § 261.001(1) (defining “abuse” for the purposes of chapter 261 of the Family Code). You do not indicate that the department has adopted a rule governing the release of this type of information; therefore, we assume that no such regulation exists. Based on this assumption, we conclude that the information we have marked is confidential pursuant to section 261.201 of the Family Code, and is generally excepted from public disclosure pursuant to section 552.101 of the Government Code. However, section 261.201 of the Family Code 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 in part 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 party to a proceeding in which the domestic relations office is providing services permitted under Chapter 203, Family Code.” Gov’t Code § 411.1285(a).<sup>1</sup> Additionally, a district court “may order the preparation of a social study into the circumstances and condition of: (1) a child who is the subject of a suit or a party to a suit; and (2) the home of any person requesting conservatorship of, possession of, or access to a child.” Fam. Code § 107.051(a). In addition, 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.

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<sup>1</sup>A “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) in conjunction with section 411.1285 may only receive such information for purposes of conducting a social study under subsection D, chapter 107 of the Family Code. *See id.* § 411.1285(c); *see also* Open Records Decision No. 655 (1997) (discussing limitations on release of criminal history record information).

The requestor states that she has been appointed by the Collin County District Courts "to complete a social study regarding the family" of the named individuals. If the department determines that the requestor is conducting a social study under chapter 107 of the Family Code and that disclosure of the marked information is consistent with chapter 261 of the Family Code in this instance, then we find that 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 information we have marked from disclosure pursuant to 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 marked information for the purpose of conducting a social study under chapter 107 and that disclosure of the information is not consistent with chapter 261 of the Family Code, then the department must withhold the marked 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 section 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).

We find, however, that you have not demonstrated how the remaining submitted information you have marked consists of files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under section 261.201 of the

Family Code. Thus, the remaining information you have marked may not be withheld under section 552.101 of the Government Code, and must be released to the requestor.<sup>2</sup>

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](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,



Paige Savoie  
Assistant Attorney General  
Open Records Division

PS/eeg

Ref: ID# 344780

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)

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<sup>2</sup>We note that the information being released contains confidential information regarding the requestor's clients to which the requestor has a right of access. *See* Gov't Code § 552.023(a) (person or person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person's privacy interests). If the department receives another request for this particular information from a different requestor, then the department should again seek a decision from this office.