



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 20, 2009

Ms. S. McClellan  
Assistant City Attorney  
Criminal Law and Police Section  
1400 S. Lamar  
Dallas, Texas 75215

OR2009-10015

Dear Ms. McClellan:

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# 349331 (Request No. 2009-3493).

The Dallas Police Department (the "department") received a request from an investigator with the Dallas Independent School District ("DISD") for information pertaining to sixteen named individuals. 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 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. Section 552.101 encompasses the doctrine of common-law privacy, which protects information if it (1) contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). This office has found that a compilation of an individual's criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. *Cf. U.S. Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989) (when considering prong regarding individual's privacy interest, court recognized distinction between public records found in courthouse files and local police stations and compiled summary of information and noted that individual has

significant privacy interest in compilation of one's criminal history). Furthermore, we find that a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. You seek to withhold the submitted information in its entirety. In this instance, however, the request pertains to current or former employees of DISD who were investigated by DISD's Office of Professional Responsibility. We find that there is a legitimate public interest in the criminal history of individuals who are working with children in a public school. *See* Educ. Code § 22.0835. Therefore, the submitted information may not be withheld in its entirety under common-law privacy.

Section 552.101 of the Government Code also encompasses section 261.201(a) of the Family Code. Section 261.201(a) 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 state the submitted information was used or developed in a child abuse investigation. Upon review, we find report number 09-239 relates to an investigation of alleged child abuse. *See id.* § 261.001(1), (4) (defining "abuse" and "neglect" for purposes of Fam. Code ch. 261). Thus, this information falls within the scope of section 261.201. There is no indication that the department has adopted a rule governing the release of this type of information. Therefore, we assume no such regulation exists. Given that assumption, we find that report number 09-239 is confidential pursuant to section 261.201 of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (construing predecessor statute). The department must generally withhold this information under section 552.101 of the Government Code. However, section 261.201(a) also provides that 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).

In this instance, the requestor represents DISD's Office of Professional Responsibility. A school district may have a right of access to some of the information at issue under section 261.201. Information that is confidential under section 261.201 may be disclosed for

purposes “consistent with this code and applicable . . . state law.” *See id.* § 261.201(a). Section 22.083(c)(1) of the Education Code authorizes a school district to obtain from any law enforcement agency all criminal history record information (“CHRI”) that relates to a district employee. *See* Educ. Code § 22.083(c)(1). 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.” Gov’t Code § 411.082(2); *see also id.* §§ 411.097(b) (school district is entitled to obtain from Texas Department of Public Safety (“DPS”) CHRI that district is authorized to obtain under chapter 22 of the Education Code that relates to district employee); 411.087(a)(2) (agency that is entitled to obtain CHRI from DPS is also authorized to “obtain from any other criminal justice agency in this state [CHRI] maintained by that [agency].” *cf. Brookshire v. Houston Indep. Sch. Dist.*, 508 S.W.2d 675, 678-79 (Tex. Civ. App.—Houston [14th Dist.] 1974, no writ) (when legislature defines term in one statute and uses same term in relation to same subject matter in latter statute, later use of term is same as previously defined). We cannot tell whether the suspect at issue is a DISD employee. Therefore, to the extent the suspect is a current DISD employee and the department determines that release of the CHRI is for a purpose consistent with the Family Code, the department must release information from report number 09-239 to this requestor that shows the type of allegation made and whether there was an arrest, information, indictment, detention, conviction, or other formal charges and their dispositions. *See* Open Records Decision No. 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Public Information Act). In that instance, the department must withhold the remainder of report number 09-239 pursuant to section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

If, however, the department determines that the individual at issue is not a current DISD employee or release is not for a purpose consistent with the Family Code, the department must withhold report number 09-239 in its entirety pursuant to section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. *See* 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); Fam. Code § 261.201(b)-(g) (listing entities authorized to receive section 261.201 information). With regard to the remaining information at issue, you have failed to demonstrate how the remaining information pertains to a report of alleged or suspected abuse or neglect under section 261.201. Therefore, the remaining information may not be withheld under section 552.101 in conjunction with section 261.201 of the Family Code.

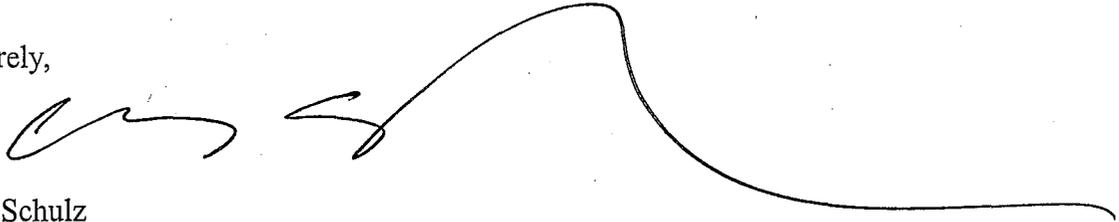
In summary, if the suspect is a current district employee and the department determines that release of the CHRI is for a purpose consistent with the Family Code, then the department must release to this requestor the information in report number 09-239 that shows the type

of allegation made and whether there was an arrest, information, indictment, detention, conviction, or other formal charges and their dispositions. If the department determines that the suspect is not a current DISD employee or release is not for a purpose consistent with the Family Code, the department must withhold report number 09-239 in its entirety pursuant to section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. As you raise no further exceptions against disclosure of the remaining information, it must be released.

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,

A handwritten signature in black ink, appearing to read 'Chris Schulz', with a long, sweeping horizontal line extending to the right.

Chris Schulz  
Assistant Attorney General  
Open Records Division

CS/cc

Ref: ID# 349331

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)