



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 23, 2010

Ms. Delietrice Henry
Open Records Assistant
City of Plano
P.O. Box 860358
Plano, Texas 75086-0358

OR2010-05770

Dear Ms. Henry:

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# 377255.

The Plano Police Department (the "department") received a request for police records pertaining to two 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 public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information protected by other statutes. Section 261.201(a) of the Family Code provides as follows:

(a) [T]he 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). Upon review, we find some of the submitted information, which we have marked, consists of files, reports, records, communications, audiotapes, videotapes, or working papers used or developed in investigations under chapter 261 of the Family Code. *See id.* § 261.001 (defining “abuse” and “neglect” for purposes of Fam. Code ch. 261); *see also id.* § 101.003(a) (defining “child” for purposes of this section as person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes). Thus, this information is within the scope of section 261.201. You do not indicate 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 the information we have marked is confidential pursuant to section 261.201(a)(2) of the Family Code and is generally excepted from public disclosure pursuant to section 552.101 of the Government Code. However, we find the remaining reports you seek to withhold under section 261.201 pertain to interference with child custody and a civil stand by. You have not demonstrated these reports were used or developed in a child abuse or neglect investigation under chapter 261. Thus, these reports are not confidential under section 261.201(a)(2) and may not be withheld on such basis under section 552.101 of the Government Code. We note, however, portions of these reports, which we have marked, consist of reports of alleged abuse of a child and are confidential under section 261.201(a)(1). *See id.* § 261.201(a)(1). Therefore, this marked information must be withheld under section 552.101 of the Government Code.

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.” Fam. Code § 261.201(a). 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 [Texas 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.”¹ See Gov’t Code § 411.1285(a); see also Fam. Code ch. 203 (governing administration of domestic relations offices). 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 [Texas Department of Public Safety] criminal history record information maintained by the [Texas 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.

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 may only receive criminal history record information if the information relates to a person who is a party to a proceeding in which the domestic relations office is providing services permitted under chapter 203 of the Family Code. See *id.* § 411.1285(a); see also Open Records Decision No. 655 (1997) (discussing limitations on release of criminal history record information).

In this instance, the requestor is a representative of the Dallas County Domestic Relations Office (the “office”) and states she is conducting a court ordered social study. See Fam. Code § 107.051(b) (court ordered social study may be performed by domestic relations office). Therefore, if the department determines the information at issue relates to a person who is a party to a proceeding in which the office is providing services permitted under chapter 203 of the Family Code, and release of the information is consistent with chapter 261 of 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 information we have marked under section 552.101 of the Government Code in conjunction with section 261.201(a)(2) of the Family Code.

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).

However, if the department determines either that the information at issue does not relate to a person who is a party to a proceeding in which the office is providing services permitted under chapter 203 of the Family Code or that disclosure of the information at issue is not consistent with chapter 261 of the Family Code, then the department must withhold the information we have marked 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).

The remaining information contains information subject to section 552.130 of the Government Code.² Section 552.130 excepts from disclosure "information [that] relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state[.]" Gov't Code § 552.130. Accordingly, the department must withhold the Texas driver's license information we have marked pursuant to section 552.130 of the Government Code.

In summary, the department must withhold the information we have marked under section 552.101 in conjunction with section 261.201(a)(1) of the Family Code. In addition, the department must withhold the information we have marked under section 552.101 in conjunction with section 261.201(a)(2) of the Family Code, unless the department determines the information at issue relates to a person who is a party to a proceeding in which the office is providing services permitted under chapter 203 of the Family Code, and release of the information is consistent with chapter 261 of the Family Code. In that instance, 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 and withhold the remaining information we have marked under section 261.201(a)(2). The department must withhold the Texas driver's license information we have marked pursuant to section 552.130 of the Government Code. The remaining information must be released to the requestor.

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.

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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/eeg

Ref: ID# 377255

Enc. Submitted documents

c: Requestor
(w/o enclosures)