



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 14, 2011

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

OR2011-18425

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# 439280 (ORR# ZYLD092311).

The Plano Police Department (the "department") received a request for a named individual's police records. You state the department has released some of the responsive information. You claim 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 information protected by other statutes. Section 261.201 of the Family Code provides, in relevant part, 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). You represent the submitted information was used or developed in investigations of suspected child abuse. *See id.* §§ 261.001(1) (defining “abuse” for purposes of chapter 261 of Family Code), 101.003(a) (defining “child” as person under eighteen years of age who is not and has not been married and who has not had disabilities of minority removed for general purposes). Accordingly, we find the submitted information is subject to section 261.201. You do not indicate the department has adopted a rule that governs the release of this type of information. Therefore, we assume no such regulation exists. Given that assumption, we find the submitted information is confidential pursuant to section 261.201(a) of the Family Code. However, section 261.201 also provides information encompassed by subsection (a) may be disclosed “for purposes consistent with [the Family Code] and applicable federal or state law.” *Id.* § 261.201(a).

We note chapter 411 of the Government Code constitutes “applicable state law” in this instance. Section 411.1285(a) of the Government Code provides in part “[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.”<sup>1</sup> 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.

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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). Additionally, a district court may order the preparation of a social study into the circumstances and condition of a child who is the subject of a suit or a party to a suit and the home of any person requesting conservatorship of, possession of, or access to a child. *See id.* § 107.051(a).

Gov't Code § 411.087(a)(2). "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 specified purposes, which include 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). Thus, if the requestor in this instance is a domestic relations office created under chapter 203 of the Family Code, then it is authorized to obtain criminal history record information that relates to a person who is a party to a proceeding in which the domestic relations office has been ordered to conduct a social study under chapter 107 of the Family Code pursuant to section 411.087(a)(2) of the Government Code. *See* Gov't Code §§ 411.083(c), .087(a)(2); *see also* Fam. Code § 261.201(a).

In this instance, the department received the request for information from the Dallas County Family Court Services (the "DCFCS") and the request states that the requested information "will be used in a court ordered social study." If the department determines that the DCFCS 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 in this instance, then we find that the department must make available to the requestor information that shows the type of allegations 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 Act). In that case, the department must withhold the remainder of the submitted information pursuant to section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.

However, if the department determines that the DCFCS does not intend to use the criminal history record information at issue 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 under 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).

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, toll free at (888) 672-6787.

Sincerely,



Kenneth Leland Conyer  
Assistant Attorney General  
Open Records Division

KLC/agn

Ref: ID# 439280

Enc. Submitted documents

c: Requestor  
(w/o enclosures)