



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 3, 2013

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

OR2013-20834

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# 507234 (ORR# SANC091013).

The Plano Police Department (the "department") received a request for information pertaining to two named individuals. You state you have released some information. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions 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 section 261.201 of the Family Code, which provides in relevant part as follows:

(a) [T]he following information is confidential, is not subject to public release under [the Act] 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.

...

(k) Notwithstanding Subsection (a), an investigating agency, other than the [Texas Department of Family and Protective Services] or the Texas Youth Commission, on request, shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect, or to the child if the child is at least 18 years of age, information concerning the reported abuse or neglect that would otherwise be confidential under this section. The investigating agency shall withhold information under this subsection if the parent, managing conservator, or other legal representative of the child requesting the information is alleged to have committed the abuse or neglect.

Fam. Code § 261.201(a), (k). Upon review, we agree the information at issue consists of a report of alleged or suspected child abuse or neglect made under chapter 261 of the Family Code. Thus, we find the submitted information is within the scope of section 261.201 of the Family Code. *See id.* §§ 261.001(1), (4) (defining “abuse” and “neglect” for purposes of section 261.201), 101.003(a) (defining “child” as a person under eighteen years of age who is not and has not been married and who has not had the disabilities of minority removed for general purposes).

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. While the requestor has received and provided to this office a signed authorization for releasing the information from one of the parents of the child victims, the parent was suspected of committing the alleged or suspected abuse or neglect. Therefore, we determine the requestor does not have a right of access to the information at issue under section 261.201(k). *See id.* § 261.201(k). Nevertheless, section 261.201 of the Family Code 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). Because the requestor is a representative of the Dallas County Domestic Relations Office (the “domestic relations office”), we will consider whether the department may disclose the report at issue under state law to this requestor.

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.”¹ *See Gov’t Code* § 411.1285(a); *see also Fam. Code* ch. 203

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).

(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). "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(c); *see also* Open Records Decision No. 655 (1997) (discussing limitations on release of criminal history record information).

In this instance, the requestor states she was appointed by the Dallas County Family District Courts to complete a court-ordered social study regarding the two named individuals. *See* Fam. Code § 107.051(b) (court-ordered social study may be performed by domestic relations office). Therefore, if the department determines the submitted 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, and release of the information is consistent with chapter 261 of the Family Code, then the department (1) 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 but (2) must withhold the remaining information from disclosure pursuant to section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.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 domestic relations office is providing

²In that event, we note the requestor has a special right of access to the information the department is releasing. Because such information is confidential with respect to the general public, if the department receives another request for this information from a different requestor, the department must again seek a ruling from this office.

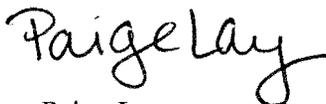
services permitted under chapter 203 of the Family Code or disclosure of the information at issue is not consistent with chapter 261 of the Family Code, then the department must withhold the submitted information in its entirety pursuant to section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. *See* Fam. Code § 261.201(b)-(g), (i), (k) (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).

Lastly, we note the department also asserts exception under section 552.108 of the Government Code. However, the requestor's statutory right of access prevails over the Act's general exception to disclosure. Open Records Decision Nos. 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information), 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Act).

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Paige Lay
Assistant Attorney General
Open Records Division

PL/eb

Ref: ID#507234

Enc. Submitted documents

cc: Requestor
(w/o enclosures)