



OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

April 7, 2003

Ms. Jennifer McClure
Assistant District Attorney
Civil Section
411 Elm Street, 5th Floor
Dallas, Texas 75202

OR2003-2306

Dear Ms. McClure:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 178952.

The administrators of the Dallas County Child Support Office and Commissioners Court (the "county") received a request for information pertaining to recipients of child support payments after 1985. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Chapter 231 of the Family Code pertains to the administration of Title IV-D child support programs. Section 231.108 provides, in relevant part:

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

(a) Except as provided by Subsection (c), all files and records of services provided under this chapter, including information concerning a custodial parent, noncustodial parent, child, and an alleged or presumed father, are confidential.

(b) Except as provided by Subsection (c), all communications made by a recipient of financial assistance under Chapter 31, Human Resources Code, or an applicant for or recipient of services under this chapter are privileged.

(c) The Title IV-D agency may use or release information from the files and records, including information that results from a communication made by a recipient of financial assistance under Chapter 31, Human Resources Code, or by an applicant for or recipient of services under this chapter, for purposes directly connected with the administration of the child support, paternity determination, parent locator, or aid to families with dependent children programs. The Title IV-D agency may release information from the files and records to a consumer reporting agency in accordance with Section 231.114.

In this instance, the requestor seeks information concerning obligors and obligees of child support payments. In Open Records Decision No. 417 (1984), this office addressed the confidentiality of the names and addresses of persons making child support payments through the county, and concluded that the name and address of a parent paying child support through the county which come from files maintained pursuant to a contractual delegation of authority remain confidential in the county files. At that time, the county was under contract with the Office of the Attorney General (the "OAG") to administer a Title IV-D child support collection program. It is our understanding that this contract is no longer in effect; however, we also understand that the county retains authority to administer Title IV-D child support collection in those cases subject to the former contract, and that the OAG currently may delegate authority to the county to administer Title IV-D child support collection on a case-by-case basis. Thus, to the extent that the requested information is collected by the county pursuant to the administration of Title IV-D child support programs under chapter 231 of the Family Code, the information is confidential under section 231.108 of the Family Code and, accordingly, must be withheld from public disclosure under section 552.101 of the Government Code. However, to the extent that the information at issue was not collected pursuant to the administration of Title IV-D child support programs under

chapter 231 of the Family Code, section 231.108 is inapplicable, and the information therefore may not be withheld from public disclosure under section 552.101.

Even if the requested information is not confidential under section 231.108 of the Family Code, a social security number or "related record" may be excepted from disclosure under section 552.101 in conjunction with the 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I). *See* Open Records Decision No. 622 (1994). These amendments make confidential social security numbers and related records that are obtained and maintained by a state agency or political subdivision of the state pursuant to any provision of law enacted on or after October 1, 1990. *See id.* We have no basis for concluding that any of the social security numbers in the file are confidential under section 405(c)(2)(C)(viii)(I), and therefore excepted from public disclosure under section 552.101 on the basis of that federal provision. We caution, however, that section 552.352 of the Public Information Act imposes criminal penalties for the release of confidential information. Prior to releasing any social security number information, you should ensure that no such information was obtained or is maintained by the county pursuant to any provision of law enacted on or after October 1, 1990.

In summary, information collected by the county pursuant to the administration of Title IV-D child support programs under chapter 231 of the Family Code is confidential under section 231.108 of the Family Code and must be withheld from public disclosure under section 552.101 of the Government Code. Social security numbers not confidential under section 231.108 may be confidential under federal law. The remaining requested information must be released to the requestor.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full

benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877)673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512)475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this

Ms. Jennifer McClure - Page 5

ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in cursive script, appearing to read "Cindy Nettles".

Cindy Nettles
Assistant Attorney General
Open Records Division

CN/jh

Ref: ID# 178952

Enc. Submitted documents

c: Mr. Richard Morgan
CSAdvance, Inc.
8150 North Central Expressway
Suite 600
Dallas, Texas 75206
(w/o enclosures)