



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 2, 2006

Ms. Cathleen Parsley  
General Counsel  
State Office of Administrative Hearings  
P.O. Box 13025  
Austin, Texas 78711

OR2006-04483

Dear Ms. Parsley:

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# 247766.

The State Office of Administrative Hearings ("SOAH") received a request for a copy of each decision, opinion, or order issued by SOAH during a specified time period for the Title IV-D Agency of the Office of the Attorney General (the "OAG"). You state that some responsive information will be provided to the requestor. You claim that the remaining requested information is excepted from disclosure pursuant to section 552.101 of the Government Code. We have considered your arguments and reviewed the submitted sample of information.<sup>1</sup> We have also considered comments submitted to this office by the OAG and the requestor. *See* Gov't Code § 552.304 (interested third party may submit comments stating why information should or should not be released).

Initially, we note that the submitted information is subject to section 552.022 of the Government Code. Section 552.022 provides in relevant part:

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<sup>1</sup>We 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) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

(12) final opinions, including concurring and dissenting opinions, and orders issued in the adjudication of cases[.]

Gov't Code § 552.022(a)(12). The submitted information consists of final decisions and orders issued by SOAH. Gov't Code § 552.022(a)(12). Therefore, SOAH may only withhold the submitted information if it is confidential under other law. Section 552.101 excepts from disclosure information considered confidential by law. Therefore, we will address your arguments under section 552.101.

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," and encompasses the confidentiality provisions of other statutes. You claim that the submitted information is confidential under section 231.108 of the Family Code. This section provides as follows:

(a) Except as provided by Subsection (c), all files and records of services provided under [chapter 231 of the Family Code], 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 communication 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.

(d) The Title IV-D agency by rule may provide for the release of information to public officials.

(e) The Title IV-D agency may not release information on the physical location of a person if:

- (1) a protective order has been entered with respect to the person; or
- (2) there is reason to believe that the release of information may result in emotional or physical harm to the person.

(f) The Title IV-D agency, by rule, may provide for the release of information to persons for purposes not prohibited by federal law.

(g) The final order in a suit adjudicating parentage is available for public inspection as provided by Section 160.633.

Fam. Code § 231.108; *see also* 42 U.S.C. § 654(26) (state plan for child and spousal support must have in effect safeguards, applicable to all information handled by State agency, that are designed to protect privacy rights of parties); Open Records Decision No. 417 at 4 (1984) (records relating to recipients of child support collection services are confidential).

Chapter 231 of the Texas Family Code governs the administration of the Title IV-D child support programs. The OAG is the legislatively-designated Title IV-D agency under chapter 231. *See* Fam. Code § 231.001. The OAG explains that the suspension of licenses in Title IV-D cases is a federally-mandated IV-D enforcement function. *See* Fam. Code § 231.001 *et seq.*; *see also* 42 U.S.C. §§ 654(20) (to extent required by 42 U.S.C. § 666, state shall have in effect laws to improve child support enforcement effectiveness referred to in that section), 666(16) (addressing authority to withhold or suspend licenses).

You inform us that SOAH and the OAG are parties to an interagency contract, under which SOAH conducts administrative hearings in Title IV-D cases referred from the OAG's Child Support Division. *See* Fam. Code § 231.002(a)(4), (c) (Title IV-D may enter into contracts or agreements necessary to administer Fam. Code ch. 231). The OAG states that "SOAH is performing a IV-D function for the OAG, i.e. the IV-D agency" and that under the contract, information encompassed by section 231.108(a) of the Family Code is transferred to SOAH.<sup>2</sup> The OAG asserts that information transferred to SOAH under the contract is confidential under state law and remains so in SOAH's custody. The OAG also states that the none of the exceptions to confidentiality apply in this instance. *See id.* 231.108(c)-(f). Furthermore, you state that all of the submitted information was either provided to SOAH or "generated

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<sup>2</sup>We note that information may be transferred between governmental bodies that are subject to the Act without waiving exceptions to the public disclosure of that information or affecting its confidentiality. *See* Attorney General Opinion JM-590 (1986); Open Records Decision No. 661 at 3 (1999). These decisions are based on the well-settled policy of this state that governmental agencies should cooperate with each other in the interest of efficient and economical administration of their statutory duties. *See* Open Records Decision No. 516 (1989). Thus, a transfer of information between state agencies is not a release of the information to the public for the purposes of section 552.007 of the Act, which prohibits the selective disclosure of information, or for those of section 552.352, which provides criminal penalties for the release of information that is considered to be confidential. *Id.*

in the course of rendering services under Chapter 231.” Both SOAH and the OAG argues that all of the information at issue must therefore be withheld from disclosure under section 552.101 in conjunction with section 231.108 of the Family Code. Based on the OAG’s arguments and those of SOAH and our review of the information at issue, we conclude that all of the submitted information must be withheld from the requestor under section 552.101 in conjunction with section 231.108 of the Family Code.

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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Dep’t of Pub. 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 Office of the Attorney General 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. 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,



Debbie K. Lee  
Assistant Attorney General  
Open Records Division

DKL/sdk

Ref: ID# 247766

Enc. Submitted documents

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