



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 1, 2009

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

OR2009-16955

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# 362771.

The Plano Police Department (the "department") received a request for information relating to seven named individuals. You state the department will release some of the information. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> 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

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<sup>1</sup>We note you no longer assert the other exceptions you raised in your letter of September 22, 2009.

used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). The submitted reports were used or developed in an investigation of suspected child abuse or neglect. Thus, we find that this information is within the scope of section 261.201 of the Family Code. *See id.* §§ 261.001(1) (defining “abuse” and “neglect” for the purposes of chapter 261 of the Family Code). You have not indicated that the department has adopted a rule that governs the release of this type of information. Therefore, we assume that no such regulation exists. Given that assumption, we find that the submitted information is confidential pursuant to section 261.201 of the Family Code and is generally excepted from public disclosure pursuant to section 552.101 of the Government Code. However, 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.” *Id.*

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.” Gov’t Code § 411.1285(a).<sup>2</sup> Additionally, a district court “may order the preparation of a social study into the circumstances and condition of: (1) a child who is the subject of a suit or a party to a suit; and (2) the home of any person requesting conservatorship of, possession of, or access to a child.” Fam. Code § 107.051(a). 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

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<sup>2</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).

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) in conjunction with section 411.1285 may only receive such information for purposes of conducting a social study under subsection D, chapter 107 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).

The requestor states that he has been assigned by the Dallas County District Courts “to complete a social study regarding the family” of the named individuals. If the department determines that the requestor is conducting a social study under chapter 107 of the Family Code and that disclosure of the submitted information is consistent with chapter 261 of the Family Code in this instance, then we find that 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 submitted information from disclosure 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 either that the requestor does not intend to use criminal history record information from the submitted information for the purpose of conducting a social study under chapter 107 or that disclosure of the information 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) (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,

A handwritten signature in cursive script that reads "Pam Wissemann".

Pamela Wissemann  
Assistant Attorney General  
Open Records Division

PFW/jb

Ref: ID# 362771

Enc. Submitted documents

c: Requestor  
(w/o enclosures)