



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 8, 2017

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

OR2017-12621

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# 661553 (ORR# MOEC032217).

The Plano Police Department (the "department") received a request for incident number 14-46756. The department claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception the department claims 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. This section encompasses information protected by 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 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.

...

(k) Notwithstanding Subsection (a), an investigating agency, other than the [Texas Department of Family and Protective Services] or the Texas Juvenile Justice Department, 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.

(l) Before a child or a parent, managing conservator, or other legal representative of a child may inspect or copy a record or file concerning the child under Subsection (k), the custodian of the record or file must redact:

...

(3) the identity of the person who made the report.

Fam. Code § 261.201(a), (k), (l)(3). The department indicates the submitted information was used or developed in an investigation of alleged or suspected abuse or neglect by the department. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code). However, we are unable to determine the age of the victim involved in the information at issue. *See id.* §§ 101.003(a) (defining “child” for purposes of this section as person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes). Accordingly, we must rule in the alternative. If the information at issue does not involve a victim of alleged abuse or neglect who was a child at the time of the incident at issue, then the information is not subject to chapter 261 of the Family Code and the department may not withhold the information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. In that instance, the department must release the submitted information.

However, if the information at issue involves a victim who was a child at the time of the incident at issue, then the information is subject to chapter 261 of the Family Code. In that instance, we note the requestor may be a parent, managing conservator, or other legal

representative of the child victim at issue in the submitted information and thus may have a right of access to the information at issue pursuant to section 261.201(k) of the Family Code. Therefore, if the requestor is not a parent, managing conservator, or other legal representative of the child victim, then the requestor does not have a right of access pursuant to section 261.201(k) and the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute).

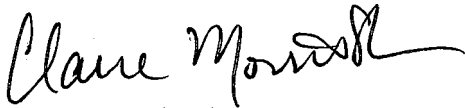
However, if the requestor is a parent, managing conservator, or other legal representative of the child victim listed in the submitted information, then we must consider whether the requestor is alleged to have committed the suspected abuse or neglect and must consider if the child victim is now an adult. If the requestor is alleged to have committed the suspected child abuse or neglect or if the child victim is now an adult, then the requestor does not have a right of access to the information at issue under section 261.201(k) and the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. *See* Fam. Code § 261.201(k); ORD 440 at 2. Conversely, if the requestor is not alleged to have committed the alleged abuse or neglect and if the child victim listed in the information is still a child, then pursuant to section 261.201(k), the information at issue may not be withheld from this requestor under section 552.101 of the Government Code on the basis of section 261.201(a). *See* Fam. Code § 261.201(k). In that instance, as noted above, section 261.201(l)(3) states the identity of the reporting party shall be withheld from disclosure. *Id.* § 261.201(l)(3). Thus, the department must withhold the identity of the reporting party under section 552.101 of the Government Code in conjunction with section 261.201(l)(3) of the Family Code and must release the remaining information to this requestor.

In summary, if the submitted information does not involve a victim who was a child at the time of the incident at issue, then the department must release the submitted information. If the submitted information involves a victim who was a child at the time of the incident at issue and (1) if the requestor is not a parent, managing conservator, or other legal representative of the child victim, or (2) if the requestor is a parent, managing conservator, or other legal representative of the child victim but is alleged to have committed the suspected abuse or neglect or if the child victim is now an adult, then the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. If the submitted information involves a victim who was a child at the time of the incident at issue and if the requestor is a parent, managing conservator, or other legal representative of the child victim and if the requestor is not alleged to have committed the suspected abuse or neglect and if the child victim is still a child, then the department must withhold the identity of the reporting party under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code and must release the remaining information to this requestor.

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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 661553

Enc. Submitted documents

c: Requestor
(w/o enclosures)