



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 13, 2019

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

OR2019-06944

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# 754447 (ORR# FODG122118).

The Plano Police Department (the "department") received a request for all records related to three named individuals, including the requestor, during a specified time period. The department states it is releasing some of the requested information. The department claims the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception the department claims and reviewed the submitted representative sample of information.<sup>1</sup>

Initially, we note some of the submitted information, which we have marked, is not responsive to the instant request for information because it does not pertain to any of the named individuals. This ruling does not address the public availability of any information that is not responsive to the request and the department is not required to release such information in response to this request.

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<sup>1</sup>We assume 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 those records contain substantially different types of information than that submitted to this office.

Section 552.101 of the Government Code exempts 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:

...

(2) any information that is excepted from required disclosure under [the Act], or other law[.]

Fam. Code § 261.201(a), (k), (l)(2). The submitted information was used or developed in investigations of alleged or suspected child abuse or neglect conducted by the department. *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), 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code). Accordingly, we find this information is subject to chapter 261 of the Family Code. We are unable to discern whether the requestor is a parent of the child victim listed in report number 2008-00222745. Nevertheless, we note the child victim listed in report number 2008-00222745 is now an adult. Thus, the requestor does not have a right of access to the information at issue under section 261.201(k). *See id.* § 261.201(k). Therefore, the department must withhold report number 2008-00222745 in its entirety under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.<sup>2</sup> *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute). We note the department must not release basic information when a report is confidential under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

We note the requestor is a parent of the child victim listed in the remaining information, and is not alleged to have committed the abuse or neglect. Thus, pursuant to section 261.201(k), the remaining information may not be withheld from this requestor under section 552.101 of the Government Code on the basis of section 261.201(a). *See id.* § 261.201(k). However, section 261.201(l)(2) states any information that is excepted from required disclosure under the Act or other law must still be withheld from disclosure. *Id.* § 261.201(l)(2). Accordingly, we will consider the department’s argument under section 552.108 of the Government Code for the remaining information

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. *See* Gov’t Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). The department states the remaining information relates to a closed criminal investigation that did not result in conviction or deferred adjudication. Based on this representation and our review, we agree the department may withhold the remaining information under section 552.108(a)(2) of the Government Code.

In summary, the department must withhold report number 2008-00222745 in its entirety under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. The department may withhold the remaining information under section 552.108(a)(2) of the Government Code.

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<sup>2</sup>As our ruling is dispositive, we need not address the remaining argument against disclosure of the submitted information.

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](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,



Kelly McWethy  
Assistant Attorney General  
Open Records Division

KSM/jxd

Ref: ID# 754447

Enc. Submitted documents

c: Requestor  
(w/o enclosures)