



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 11, 2019

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

OR2019-15615

Dear Ms. Ortiz:

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# 769349 (ORR# P000481).

The Plano Police Department (the "department") received a request for information related to specified incidents. We understand the department will redact public citizens' dates of birth pursuant to Open Records Letter No. 2017-00118 (2017).<sup>1</sup> The department states it is releasing some of the requested information. 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 exception encompasses information made confidential by statute, including section 48.101 of the Human Resources Code. Section 48.101 is applicable to information relating to abuse, neglect, or exploitation of elderly and disabled persons in certain facilities and provides in part:

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<sup>1</sup>Open Records Letter No. 2017-00118 authorizes the department to withhold public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a ruling from this office.

(a) The following information is confidential and not subject to disclosure under Chapter 552, Government Code:

(1) a report of abuse, neglect, or exploitation made under [chapter 48 of the Human Resources Code];

(2) the identity of the person making the report; and

(3) except as provided by this section, all files, reports, records, communications, and working papers used or developed in an investigation made under [chapter 48 of the Human Resources Code] or in providing services as a result of an investigation.

(b) Confidential information may be disclosed only for a purpose consistent with [chapter 48 of the Human Resources Code] and as provided by [the Texas Department of Family and Protective Services (“DFPS”)] or investigating state agency rule and applicable federal law.

Hum. Res. Code § 48.101(a)-(b). The department contends the submitted information is confidential under section 48.101. We note the only entities authorized to conduct an investigation under chapter 48 of the Human Resources Code are the DFPS and certain other state agencies, depending on the circumstances surrounding the incident.<sup>2</sup> *See id.* §§ 48.151, .152, .252, .301. Thus, section 48.101 is generally not applicable to records of an investigation conducted by a police department. Upon review, we find the department has not demonstrated any of the submitted information constitutes files, reports, records, communications, or working papers used or developed in an investigation conducted under chapter 48 of the Human Resources Code. *See id.* § 48.101(a)(3). We therefore conclude the department may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with section 48.101 of the Human Resources Code. The department must release 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/>

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<sup>2</sup>In 2005, the Department of Protective and Regulatory Services was renamed the Department of Family and Protective Services. *See* Act of May 29, 2005, 79th Leg., R.S., ch. 268, §§ 1.74, 1.75, 2005 Tex. Gen. Laws 621; 661.

[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,

A handwritten signature in cursive script, appearing to read "Claire Morris Sloan".

Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/be

Ref: ID# 769349

Enc. Submitted documents

c: Requestor  
(w/o enclosures)