



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 15, 2010

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

OR2010-03667

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# 372666.

The Plano Police Department (the "department") received a request for recordings of specified 9-1-1 calls as well as the police reports related to the calls. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim 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. Section 552.101 encompasses section 261.201 of the Family Code, which provides as follows:

(a) [T]he following information is confidential, is not subject to public release under [the Act] 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 [Department of Family and Protective Services] or the Texas Youth Commission, 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.

Fam. Code § 261.201(a), (k). You raise section 261.201 for the submitted information. After reviewing the submitted information, we find call for service numbers 2009-00240289 and 2009-00240332, and the related 9-1-1 call recordings, are reports of alleged child abuse. *See id.* § 261.001(1) (defining “abuse” for purposes of Fam. Code ch. 261). Although the requestor is a parent of the child listed in these reports, the requestor is alleged to have committed the suspected abuse. Therefore, the requestor does not have a right of access under section 261.201(k). You do not indicate the department has adopted a rule governing the release of this information. Accordingly, we assume no such rule exists. Given that assumption, we conclude the department must withhold call for service numbers 2009-00240289 and 2009-00240332, and the related 9-1-1 call recordings, under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. However, incident report number 2009-00240189 and call for service number 2009-00240321 do not on their face pertain to an allegation of child abuse. Further, you do not provide any arguments explaining how these records were used or developed in a child abuse investigation. *See Gov’t Code § 552.301(e)(1)(A)* (governmental body must provide sufficient arguments to establish applicability of claimed exceptions). Therefore, incident report number 2009-00240189, call for service number 2009-00240321, and the related 9-1-1 call recordings, may not be withheld under section 552.101 of the Government Code on this basis. As you raise no other exceptions to disclosure of incident report number 2009-00240189, call for service number 2009-00240321, and the related 9-1-1 call recordings, this information must be released to the requestor.¹

¹We note the information to be released contains certain information pertaining to the requestor that would be withheld from the general public by laws and exceptions enacted to protect the requestor’s privacy. The requestor has a special right of access to her private information. *See Gov’t Code § 552.023(a)* (person or person’s authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person’s privacy interests). If the department receives another request for this particular information from a different requestor, the department should again seek a decision from this office.

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, 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,



Jessica Eales
Assistant Attorney General
Open Records Division

JCE/dls

Ref: ID# 372666

Enc. Submitted documents

c: Requestor
(w/o enclosures)