



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 16, 2011

Mr. Mark G. Mann
Assistant City Attorney
City of Garland
P. O. Box 469002
Garland, Texas 75046-9002

OR2011-08558

Dear Mr. Mann:

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# 421038 (GCA 11-0264).

The Garland Police Department (the "department") received a request for warrants and affidavits regarding a named individual's arrest and/or a specified address. 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. This section encompasses information protected by other statutes such as section 261.201(a) of the Family Code, which provides the following:

(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.

Fam. Code § 261.201(a). The submitted information relates to an investigation by the department of criminal solicitation of a minor and sexual performance of a child. Upon review, we find that the submitted information consists of files, reports, records, communications, or working papers used or developed in an investigation under chapter 261. *See id.* §§ 261.001(1) (“abuse” for purposes of chapter 261 of the Family Code includes causing, permitting, engaging in, or allowing sexual performance by a child as defined by section 43.25 of the Penal Code), 101.003(a) (defining “child” for purposes of section 261.201 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”); *see also* Penal Code §§ 15.031(f) (defining “minor” for purposes of section 15.031 as “an individual younger than 17 years of age”), 43.25(b) (providing that a person commits an offense if “he employs, authorizes, or induces a child younger than 18 years of age to engage in sexual conduct or sexual performance”). Accordingly, the submitted information is confidential under section 261.201 of the Family Code, and the department must withhold it under section 552.101 of the Government Code.¹ *See* Open Records Decision No. 440 at 2 (1986) (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, 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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/eb

¹As our ruling is dispositive, we need not address your arguments against disclosure of the submitted information.

Ref: ID# 421038

Enc. Submitted documents

cc: Requestor
(w/o enclosures)