



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 27, 2011

Ms. Teresa J. Brown  
Senior Open Records Assistant  
City of Plano  
P.O. Box 860358  
Plano, Texas 75086-0358

OR2011-18998

Dear Ms. Brown:

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# 440601 (tracking # WARK100411).

The Plano Police Department (the "department") received a request for a certain incident report. You claim that 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 of the Family Code, which provides in pertinent part 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 [Texas 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.

(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:

...

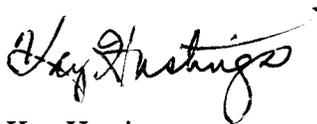
(3) the identity of the person who made the report

Fam. Code § 261.201(a), (k), (l)(3). The submitted information relates to a department investigation of 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 § 43.25(b) (providing that person commits offense if “he employs, authorizes, or induces a child younger than 18 years of age to engage in sexual conduct or sexual performance”). Thus, the submitted information is subject to section 261.201(a). However, the requestor is a parent of the child victim listed in the report, and the parent is not suspected of having committed the alleged abuse. Therefore, in this instance, the department may not use section 261.201(a) to withhold this report from this requestor. *Id.* § 261.201(k). Section 261.201(l)(3) states the identity of the reporting party must be withheld. *Id.* § 261.201(l)(3). Therefore, the department must withhold the identifying information of the reporting party we have marked under section 552.101 of the Government Code in conjunction with section 261.201(l)(3) of the Family Code and release the remaining information to the 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.oag.state.tx.us/open/index\\_orl.php](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,

A handwritten signature in black ink that reads "Kay Hastings". The signature is written in a cursive style with a large, stylized initial "K".

Kay Hastings  
Assistant Attorney General  
Open Records Division

KH/sdk

Ref: ID# 440601

Enc. Submitted documents

c: Requestor  
(w/o enclosures)