



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 5, 2012

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

OR2012-03328

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# 446979 (Plano Tracking No. GALM120711).

The Plano Police Department (the "department") received a request from two requestors for the full report concerning a specified incident. 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 states:

(a) Except as provided by Section 261.203, the 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:

(1) any personally identifiable information about a victim or witness under 18 years of age unless that victim or witness is:

(A) the child who is the subject of the report; or

(B) another child of the parent, managing conservator, or other legal representative requesting the information;

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

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

Fam. Code § 261.201(a), (k)–(l). You state the submitted report was used or developed in an investigation of alleged indecency with a child. *See id.* § 261.001(1)(E) (defining “abuse” for purposes of chapter 261 of the Family Code includes indecency with a child under Penal Code section 21.11); *see also* Penal Code § 21.11(a) (defining “child” for purposes of indecency with a child as person under 17 years of age). Thus, we agree the submitted report is subject to section 261.201 of the Family Code. As to the first requestor, we find she does not have a right of access to the submitted report. You do not inform us the department has adopted a rule governing the release of this type of information; therefore, we assume no

such regulation exists. Given that assumption, the submitted report is confidential under section 261.201 of the Family Code and must be withheld from the first requestor under section 552.101 of the Government Code. As to the second requestor, we find she is the victim identified in the report, and she was older than eighteen at the time of the request. Therefore, the department may not withhold this report from the second requestor on the basis of section 261.201(a) of the Family Code. *See* Fam. Code § 261.201(k). However, before the department provides the second requestor with information concerning this report, it must redact the identity of the person who made the report, which we have marked. *See* Fam. Code § 261.201(l)(3). The department must withhold this information from the second requestor under section 552.101 of the Government Code in conjunction with section 261.201(l)(3) of the Family Code. In addition, section 261.201(l)(2) states any information excepted from required disclosure under the Act or other law must be withheld from disclosure. *Id.* § 261.201(l)(2). We note the remaining information contains Texas driver's license numbers subject to section 552.130 of the Government Code.¹

Section 552.130 of the Government Code excepts from disclosure information related to a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country. Gov't Code § 552.130(a)(1), (2). Accordingly, the department must withhold the information we have marked under section 552.130 of the Government Code.

In summary, the department must withhold the submitted report from the first requestor under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. As to the second requestor, the department must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 261.201(l)(3) of the Family Code. The department also must withhold the information we marked under section 552.130 of the Government Code. The remaining information must be released to the second requestor.²

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.

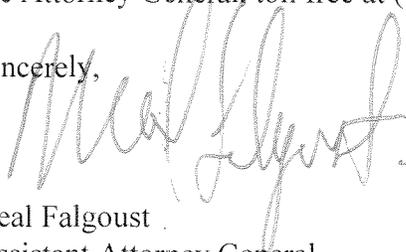
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php.

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

²We note the requestor has a right of access to the information being released under section 261.201(k) of the Family Code. If the department receives another request for this same information from a different requestor, then the department must again seek a ruling from this office.

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 cursive script, appearing to read "Neal Falgoust".

Neal Falgoust
Assistant Attorney General
Open Records Division

NF/ag

Ref: ID# 446979

Enc. Submitted documents

c: Requestor
(w/o enclosures)