



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 7, 2009

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

OR2009-04560

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# 341214.

The Plano Police Department (the "department") received a request for a specified incident report. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions 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 in relevant part:

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, 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, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

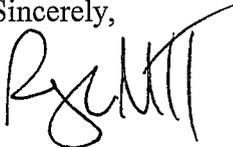
Fam. Code § 261.201(a). Upon review, we find that the submitted information involves allegations of sexual assault of a child and was created pursuant to an abuse or neglect

investigation as defined in section 261.001. *See id.* § 261.001(1), (4) (defining “child abuse” and “neglect” for purposes of section 261.201); *id.* § 101.003(a) (defining “child” as a person under 18 years of age). Therefore, this report falls within the scope of section 261.201. You have not indicated that the department has adopted a rule governing the release of this type of information. Thus, we conclude that the submitted information is confidential under section 261.201 of the Family Code. The department must withhold this information in its entirety under section 552.101 of the Government Code. *See Open Records Decision No. 440 at 2 (1986) (construing predecessor statute).*¹

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 at (512) 475-2497.

Sincerely,



Ryan T. Mitchell
Assistant Attorney General
Open Records Division

RTM/jb

Ref: ID# 341214

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

¹As this ruling is dispositive, we need not address your remaining arguments against disclosure of the submitted information, except to note that, although you mention the right of a parent to access her child’s law enforcement records under section 58.007(e) of the Family Code, section 58.007(j) states that the custodian of such records shall redact information excepted from disclosure under law. *See Fam. Code* § 58.007(e), (j). In this instance, the information at issue is excepted in its entirety from disclosure under section 261.201(a); thus, section 58.007(e) does not grant the requestor a right of access to the information currently at issue. *See id.* §§ 58.007(e), 261.201(a).