



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 5, 2009

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

OR2009-15763

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# 360602.

The Plano Police Department (the "department") received a request for all information pertaining to (1) report number 09-096261; (2) a specified address during a specified time period; (3) the same address concerning actions involving the department; and (4) two named individuals. You state you have released some of the requested information to the requestor. 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 information protected by other statutes, such as section 261.201 of the Family Code. Section 261.201 provides in relevant part:

(a) Except as provided by Section 261.203, 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, 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 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 claim the submitted reports pertain to investigations of child abuse. Upon review, we find most of the submitted information consists of files, reports, or records used or developed in investigations under chapter 261. Therefore, the information at issue is within the scope of section 261.201(a)(2) of the Family Code. *Id.* § 261.001 (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code); *see also id.* § 101.003(a) (defining “child” for purposes of this section 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). Accordingly, the information at issue is generally confidential pursuant to section 261.201(a)(2) of the Family Code.

However, we find the remaining reports you seek to withhold under section 261.201 pertain to interference with child custody. Thus, these reports are not confidential under section 261.201(a)(2) and may not be withheld on such basis under section 552.101 of the Government Code. We note, however, portions of the reports, which we have marked, are confidential under section 261.201(a)(1). *See id.* § 261.201(a)(1). This marked information must be withheld under section 552.101 of the Government Code.

We note the requestor is the parent of the child victim listed in the reports that are within the scope of section 261.201(a)(2); however, report numbers 2009-00091199 and 2006-00017280 and case number 257634 involve abuse or neglect allegations against the requestor. Thus, the department must withhold report numbers 2009-00091199 and 2006-00017280 and case number 25767634, which we have marked, under section 552.101 in conjunction with section 261.201(a). *See id.* § 261.201(k). However, we note the requestor is not alleged to have committed the suspected abuse or neglect in the remaining reports that are within the scope of section 261.201(a)(2). Therefore, the department may not use section 261.201(a) to withhold those reports from this requestor. *Id.* § 261.201(k). Section 261.201(l)(2) of the Family Code states, however, that information subject to any other exception to disclosure under the Act or other law must be redacted. *Id.* § 261.201(l)(2).

Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy, which protects information that (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). This office has held the compilation of an individual's criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. *Cf. United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989) (finding significant privacy interest in compilation of individual's criminal history by recognizing distinction between public records found in courthouse files and local police stations and compiled summary of criminal history information). Furthermore, we find the compilation of a private citizen's criminal history is generally not of legitimate concern to the public.

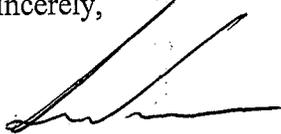
In this instance, the request is, partially, for all police reports related to two named individuals. We find this request for unspecified law enforcement records concerning the named individuals implicates their privacy rights. Thus, to the extent the department maintains law enforcement records depicting either of the named individuals as a suspect, arrestee, or criminal defendant, the department must withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the department must withhold report numbers 2009-00091199 and 2006-00017280 and case number 25767634 under section 552.101 of the Government Code in conjunction with section 261.201(a)(2) of the Family Code. The department must also withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 261.201(a)(1) of the Family Code. To the extent the department maintains law enforcement records depicting either of the named individuals as a suspect, arrestee, or criminal defendant, the department must withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy. The remaining information must be released.<sup>1</sup>

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,



Ana Carolina Vieira  
Assistant Attorney General  
Open Records Division

ACV/eeg

Ref: ID# 360602

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>1</sup>Because the information being released may contain confidential information with respect to the general public, if the department receives another request for this particular information from a different requestor, then the department should again seek a decision from this office.