



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 14, 2007

Mr. William A. Young
Chief of Police
City of Deer Park
P.O. Box 700
Deer Park, Texas 77536-0700

OR2007-12045

Dear Mr. Young:

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# 289309.

The City of Deer Park Police Department (the "department") received a request for a specified police report. You claim that the requested 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," and encompasses information made confidential by other statutes. Gov't Code § 552.101. You contend that the submitted information is made confidential under section 261.201 of the Family Code, which provides in pertinent 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, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

(h) This section does not apply to an investigation of child abuse or neglect in a home or facility regulated under Chapter 42, Human Resources Code.

Fam. Code § 261.201(a), (h). You state that the submitted information was used or developed in an investigation of alleged child abuse. However, section 261.201 does not apply to an investigation of child abuse or neglect in a home or facility regulated under chapter 42 of the Human Resources Code. *See id.* § 261.201(h). We note that the incident at issue allegedly occurred at a child care facility that is regulated by the Texas Department of Family and Protective Services under chapter 42 of the Human Resources Code. We therefore find that section 261.201 is not applicable to the investigation at issue, and we determine that the department may not withhold any of the submitted information under section 552.101 on that basis.

We note that the submitted records contain Texas driver's license numbers.¹ Section 552.130 of the Government Code provides in part:

(a) Information is excepted from the requirements of Section 552.021 if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state[.]

Gov't Code § 552.130(a). The department must withhold the Texas driver's license numbers that we have marked under section 552.130 of the Government Code. The remaining information must be released to the requestor.²

¹Unlike other exceptions to disclosure, this office will raise sections 552.130 on behalf of a governmental body, as this exception is mandatory and may not be waived. *See Gov't Code §§552.007, .352; Open Records Decision No. 674 at 3 n.4 (2001) (mandatory exceptions).*

²We note that a portion of the remaining information would not be releasable to the general public. However, the requestor is the parent of the child at issue. Thus, the requestor has a special right of access under section 552.023 of the Government Code to the information that would ordinarily be withheld to protect the child's common-law privacy, and such information cannot be withheld from the requestor on that basis. The submitted documents also contain the requestor's Texas driver's license and social security numbers. Because sections 552.130 and 552.147 also protect personal privacy, the requestor also has a right of access to her own Texas driver's license and social security numbers. *See Gov't Code § 552.023. (person or the parent of minor has a special right of access to information that is excepted from public disclosure under laws intended to*

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for

protect that person's or that person's child's privacy interest). The department should again seek our decision if it receives another request for this information from a person other than the requestor or her authorized representative. *See* Gov't Code §§ 552.301, .302.

contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in cursive script that reads "Paige Savoie".

Paige Savoie
Assistant Attorney General
Open Records Division

PS/eeg

Ref: ID# 289309

Enc. Submitted documents

c: Ms. Candace Parker
335 East San Augustine #148
Deer Park, Texas 77536
(w/o enclosures)