



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 6, 2008

Ms. Sandy Dudley
Assistant City Attorney
City of Cleburne
P.O. Box 677
Cleburne, Texas 76033-0677

OR2008-06143

Dear Ms. Dudley:

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# 309264.

The Cleburne Police Department (the "department") received two requests, one for all reports relating to a named individual and both for information pertaining to a specified case number. You claim that the submitted information related to the specified case number is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note that you have only submitted information pertaining to the specified case number. Therefore, to the extent that additional responsive information concerning the named individual exists, we assume that it has been released. If such information has not been released, then it must be released at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

You assert that the submitted information should be withheld in its entirety under section 552.101 of the Government Code, which 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. Section 261.201(a) of the Family Code provides:

(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). In this instance, the submitted information concerns a family violence assault involving two adults. Although the submitted information contains allegations of child abuse, you do not explain, nor do the documents reflect, that the department actually used or developed this information in an investigation under chapter 261. Thus, you have failed to demonstrate that the submitted information is confidential in its entirety under section 261.201(a)(2) of the Family Code. You also claim, however, that the submitted information contains reports of alleged child abuse made under chapter 261 of the Family Code and the identifying information of the persons making the reports. After reviewing the submitted information, we have marked the information that is confidential under section 261.201(a)(1) and must be withheld under section 552.101. The remaining portions are not confidential under section 261.201.

Next, we note that the submitted information contains Texas driver's license information. Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit issued by an agency of this state. *See* Gov't Code § 552.130(a)(1). We agree that the Texas driver's license information that the department marked is subject to section 552.130. However, because this exception protects personal privacy, the requestor listed in the report has a right of access to his own Texas driver's license information. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself).¹ It appears that the second requestor may be the authorized representative of one of the individuals whose driver's license information is contained in the submitted report. If so, he has a right of access to his client's information under section 552.023. *Id.* However, the remaining information subject to section 552.130 must be withheld.

In summary, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 261.201(a)(1) of the

¹Section 552.023(a) provides that "[a] person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests." Gov't Code § 552.023(a).

Family Code. The first requestor has a right of access to his driver's license information. Additionally, if the second requestor is the authorized representative of one of the individuals in the report, he has a right of access to his client's driver's license information. The remaining driver's license information must be withheld under section 552.130. The remaining information must be released.

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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, 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 challenge 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

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

Sincerely,



Laura E. Ream
Assistant Attorney General
Open Records Division

LER/jb

Ref: ID# 309264

Enc. Submitted documents

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