



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 16, 2008

Ms. Lillian G. Graham
Assistant City Attorney
City of Mesquite
P.O. Box 850137
Mesquite, Texas 75185-0137

OR2008-09673

Dear Ms. Graham:

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# 315972.

The Mesquite Police Department (the "department") received a request for all calls for service for a specified address and all files related for those calls for service for a specified time period. You state that you have released some of the requested information to the requestor. You inform us that you will redact social security numbers pursuant to section 552.147 of the Government Code.¹ You claim that portions of the submitted information are excepted from disclosure under sections 552.101, 552.130, and 552.147 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. This section encompasses information that is made confidential by other statutes. Section 261.201(a) of the Family Code provides as follows:

¹Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

(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 of submitted information, we find that reports 05095767, 06075055, 06084478, 06135538, 07029890, 07098145, 07124866, 07130271, 07133009, 07135384, 07142867, 07142880, and 08006180 were used or developed in an investigation of alleged or suspected child abuse. *See 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). Thus, we find that these reports are within the scope of section 261.201 of the Family Code. You have not indicated that the department has adopted a rule that governs the release of this type of information. Therefore, we assume that no such regulation exists. Given that assumption, reports 05095767, 06075055, 06084478, 06135538, 07029890, 07098145, 07124866, 07130271, 07133009, 07135384, 07142867, 07142880, and 08006180 are confidential pursuant to section 261.201 of the Family Code.² Accordingly, they must be withheld under section 552.101 of the Government Code.

You assert that some of the remaining submitted information is excepted from disclosure under section 552.130 of the Government Code, which provides that information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. *Id.* § 552.130(a)(1), (2). We agree that the department must withhold the Texas driver’s license information you have marked under section 552.130 of the Government Code.

You also assert that some of the remaining submitted information is excepted under section 552.147 of the Government Code, which provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act. The

²We note, however, that if the Texas Department of Family and Protective Services has created a file on this alleged abuse, the child’s parent(s) may have the statutory right to review that file. *See* Fam. Code § 261.201(g); Act of June 2, 2003, 78th Leg., R.S., ch. 198, § 1.27, 2003 Tex. Gen. Law 611, 641 (“A reference in law to the Department of Protective and Regulatory Service means the Department of Family and Protective Services.”).

department may withhold the social security numbers you have marked under section 552.147.

In summary, the department must withhold reports 05095767, 06075055, 06084478, 06135538, 07029890, 07098145, 07124866, 07130271, 07133009, 07135384, 07142867, 07142880, and 08006180 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. The department must withhold the Texas motor vehicle information you have marked under section 552.130 of the Government Code and may withhold the social security numbers you have marked under section 552.147 of the Government Code. 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). If the governmental body does not file suit over 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).

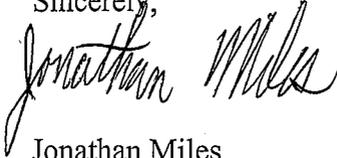
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can challenge that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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,

A handwritten signature in cursive script that reads "Jonathan Miles".

Jonathan Miles
Assistant Attorney General
Open Records Division

JM/jh

Ref: ID# 315972

Enc. Submitted documents

c: Mr. Lonnie J. Johnson, Jr.
2504 Spring Rain Drive
Mesquite, Texas 75181
(w/o enclosures)