



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 27, 2010

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

OR2010-01274

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# 368292.

The Mesquite Police Department (the "department") received a request for any reports involving two named individuals. You claim the submitted reports are excepted from disclosure under sections 552.101 and 552.130 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 as follows:

(a) [T]he following information is confidential, is not subject to public release under [the Act] 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 of Family and Protective Services (“DFPS”)] 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.

Fam. Code § 261.201(a), (k). You indicate the DFPS intake reports and department incident report in Exhibit 2 pertain to investigations of possible child abuse or neglect. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of Fam. Code ch. 261). Based on your representation and our review, we find the reports in Exhibit 2 are generally confidential under section 261.201 of the Family Code. *See id.* § 261.201(a). Although the requestor is a parent of the child victims listed in the reports, the requestor is alleged to have committed the suspected abuse or neglect. Therefore, the requestor does not have a right of access under section 261.201(k). You do not indicate the department or DFPS has adopted a rule governing the release of this information in this instance. Accordingly, we assume no such rule exists. Given that assumption, we conclude the department must withhold the reports in Exhibit 2 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle operator’s license, driver’s license, motor vehicle title, or registration issued by a Texas agency. Gov’t Code § 552.130(a)(1), (2). Therefore, the department must withhold the Texas driver’s license numbers you have marked in Exhibit 3 under section 552.130.¹

¹We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas driver’s license number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

In summary, the department must withhold the reports in Exhibit 2 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. The department must withhold the Texas driver's license numbers you have marked in Exhibit 3 under section 552.130 of the Government Code. The remaining information must be released.²

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, toll free, at (888) 672-6787.

Sincerely,



Jessica Eales
Assistant Attorney General
Open Records Division

JCE/eeg

Ref: ID# 368292

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²We note you have marked social security numbers in Exhibit 3 under section 552.147 of the Government Code. Section 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.