



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 3, 2010

Mr. Thomas A. Gwosdz
City Attorney
City of Victoria Legal Department
P.O. Box 1758
Victoria, Texas 77902-1758

OR2010-08057

Dear Mr. Gwosdz:

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# 381438.

The City of Victoria (the "city") received a request for a specified police report. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code.¹ 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:

¹Although you also raise section 552.108 of the Government Code, you make no argument to support this exception. Therefore, we assume you have withdrawn your claim that this section applies to the submitted information. See Gov't Code § 552.301, .302.

(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.

Fam. Code § 261.201(a). You assert the submitted information is confidential because it relates to an investigation of alleged child abuse. We note, however, the submitted information relates to an investigation of alleged abandonment of a child with intent to return. *See id.* § 261.001(4)(A) (definition of “neglect” for purposes of chapter 261 of the Family Code does not include abandoning child with intent to return). Consequently, we find you have failed to adequately demonstrate how this information was used or developed in an investigation under chapter 261 of the Family Code. We therefore conclude section 261.201 is not applicable to the submitted information. Accordingly, the city may not withhold any of the submitted information under section 552.101 on that basis.

We note a portion of the submitted information is subject to section 552.130 of the Government Code. Section 552.130 provides that information relating to a motor vehicle operator’s license or driver’s license issued by a Texas agency or a motor vehicle title or registration issued by a Texas agency is excepted from public release. Gov’t Code § 552.130(a)(1). Therefore, the city must withhold the Texas motor vehicle record information we have marked under section 552.130 of the Government Code.² The remaining information must be released.³

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.

² We 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 and the portion of a photograph that reveals a Texas license plate number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

³ We note that because the requestor, as the authorized representative of the individual whose information is at issue, has a right of access to some of the information in this instance, the city must again seek a decision from this office if it receives another request for the same information from a different requestor. *See* Gov’t Code § 552.023 (a). We also note the information being released contains a social security number to which the requestor does not have a right of access. 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.

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,



Mack T. Harrison
Assistant Attorney General
Open Records Division

MTH/sdk

Ref: ID# 381438

Enc. Submitted documents

c: Requestor
(w/o enclosures)