



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 1, 2010

Ms. Crystal Cogburn  
Records Clerk  
City of Robinson  
111 West Lyndale  
Robinson, Texas 76706

OR2010-17948

Dear Ms. Cogburn:

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# 403377.

The Robinson Police Department (the "department") received a request for offense reports related to two specified incidents involving a named individual. You claim that the submitted 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.

Initially, we note you have submitted only one of the requested reports. To the extent information responsive to the remaining requested report existed on the date the department received the request, we assume you have released it. If you have not released any such information, you must do so at this time. *See id.* §§ 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).

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 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.

(l) Before a child or a parent, managing conservator, or other legal representative of a child may inspect or copy a record or file concerning the child under Subsection (k), the custodian of the record or file must redact:

(1) any personally identifiable information about a victim or witness under 18 years of age unless that victim or witness is:

(A) the child who is the subject of the report; or

(B) another child of the parent, managing conservator, or other legal representative requesting the information;

(2) any information that is excepted from required disclosure under [the Act], or other law[.]

Fam. Code § 261.201(a), (k), (l)(1)-(2). The submitted report was used or developed in an investigation of an alleged injury to a child. *See id.* § 261.001(1) (defining "abuse" for purposes of chapter 261 of the Family Code); *see also* Penal Code § 22.04(c) (defining

“child” for purposes of injury to a child as a person 14 years of age or younger). Thus, we find the submitted information is generally confidential under section 261.201 of the Family Code.

However, in this instance, the requestor is the legal representative of a parent of the child victim listed in the report and that parent is not alleged to have committed the suspected abuse. Therefore, the department may not use section 261.201(a) to withhold the submitted information from this requestor. Fam. Code § 261.201(k). Nevertheless, section 261.201(1)(1) of the Family Code provides that before a parent or legal representative may inspect or copy a record of a child under 261.201(k), any personally identifiable information about a victim or witness under 18 years of age who is not the child of the parent, managing conservator, or other legal representative requesting the information must be redacted. *Id.* § 261.201(1)(1). Accordingly, the department must withhold the identifying information of the individuals we have marked under section 552.101 of the Government Code in conjunction with section 261.201(1)(1) of the Family Code. Furthermore, section 261.201(1)(2) provides that any information that is excepted from required disclosure under the Act or other law may be withheld from disclosure. *Id.* § 261.201(1)(2). We note some of the remaining information is subject to section 552.130 of the Government Code.<sup>1</sup> Therefore, in accordance with section 261.201(1)(2) of the Family Code, we will consider the applicability of this exception to the remaining information.

Section 552.130 excepts from public disclosure information relating to a driver’s license issued by an agency of this state. Gov’t Code § 552.130(a)(1). Upon review, we determine the department must withhold the Texas driver’s license number we have marked under section 552.130 of the Government Code.<sup>2</sup>

In summary, the department must withhold the identifying information of the individuals we have marked under section 552.101 of the Government Code in conjunction with section 261.201(1)(1) of the Family Code. The department must withhold the Texas driver’s license number we have marked under section 552.130 of the Government Code. The remaining submitted information must be provided to the requestor.<sup>3</sup>

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

<sup>2</sup>We note Open Records Decision No. 684 (2009) is a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver’s license numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

<sup>3</sup>We note the information being released contains a social security number. Section 552.147 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 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](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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 403377

Enc. Submitted documents

c: Requestor  
(w/o enclosures)