



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 8, 2011

Mr. Mack Reinwand
Assistant City Attorney
Arlington Police Department
P.O. Box 1065
Arlington, Texas 76004-1065

OR2011-01910

Dear Mr. Reinwand:

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# 408414 (Ref. No. 2505-111810).

The Arlington Police Department (the "department") received a request for a specified police report. You claim the requested 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.

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 exception encompasses information that other statutes make confidential. Section 261.201 of the Family Code provides in part:

(a) [T]he following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with [the Family 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 [chapter 261 of the Family Code] 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 [chapter 261 of the Family Code] or in providing services as a result of an investigation.

Fam. Code § 261.201(a). You assert the submitted information is made confidential by section 261.201. We note the submitted information pertains to an assault between two adults. Furthermore, you have not demonstrated how the submitted information was otherwise used or developed by the department in an investigation under chapter 261. *See id.* § 261.201(a); *see also id.* § 261.001(1) (defining “abuse” for purposes of chapter 261 of the Family Code). Accordingly, we conclude the submitted information is not confidential in its entirety under section 261.201(a)(2) of the Family Code and may not be withheld under section 552.101 of the Government Code on that basis. However, we note a portion of the submitted information, which we have marked, pertains to reports of alleged or suspected child abuse. *See id.* § 261.201(a)(1). Accordingly, the information we have marked is within the scope of section 261.201(a)(1) of the Family Code. In this instance, the requestor is a parent of the child victim. However, the information at issue reflects that this parent is suspected of having committed the alleged abuse. Accordingly, we conclude none of the exceptions in subsection (k) apply to this information. *See id.* § 261.201(k) (parental exception to section 261.201 inapplicable where parent alleged to have committed abuse/neglect at issue). Thus, we conclude 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 Family Code. *See* Open Records Decision No. 440 at 2 (1986) (addressing predecessor statute).

We note some of the remaining information is subject to section 552.130 of the Government Code.¹ Section 552.130 excepts from disclosure “information [that] relates to . . . a motor vehicle operator’s or driver’s license or permit issued by an agency of this state[.]” Gov’t Code § 552.130(a)(1). Upon review, we find the driver’s license number we have marked is subject to section 552.130. Accordingly, the department must withhold the Texas driver’s license number under section 552.130 of the Government Code.²

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

¹The Office of the Attorney General will raise a mandatory exception, like section 552.130 of the Government Code, on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

²We note this office issued Open Records Decision No. 684 (2009), 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.

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 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.

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,



Jonathan Miles
Assistant Attorney General
Open Records Division

JM/em

Ref: ID# 408414

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³We note the information being released in this instance contains confidential information to which the requestor has a right of access. *See* Gov't Code § 552.023(a). If the department receives another request for the same information from a different requestor, the department should again seek a decision from this office. We further note the information being released contains the social security number of someone other than the requestor. 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. *Id.* § 552.147(b).