



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 24, 2011

Ms. Teresa J. Brown
Senior Open Records Assistant
Plano Police Department
P.O. Box 860358
Plano, Texas 75086-0358

OR2011-04070

Dear Ms. Brown:

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# 412061 (Plano ORR# LICJ122810).

The Plano Police Department (the "department") received a request for information pertaining to a specified incident. 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 section encompasses information protected by other statutes, such as section 261.201(a) of the Family Code, which provides:

(a) Except as provided by Section 261.203, 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, 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 subject to chapter 261 of the Family Code and note that a referral was made to Child Protective Services (“CPS”). However, you do not explain, nor do the documents reflect, the department or CPS used or developed this information in an investigation under chapter 261. Thus, you have failed to demonstrate the submitted information is confidential under section 261.201 of the Family Code, and the department may not withhold it under section 552.101 of the Government Code on such basis.

Section 552.130 excepts from public disclosure information that relates to a Texas motor vehicle operator’s or driver’s license or permit or Texas motor vehicle title or registration.¹ Gov’t Code § 552.130(a)(1), (2). We note that section 552.130 protects personal privacy. Thus, the requestor has a right of access to his own Texas driver’s license information under section 552.023 of the Government Code. *See id.* § 552.023 (person or person’s authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person’s privacy interests); Open Records Decision No. 481 at 4 (1987). Furthermore, if the requestor is seeking the information on behalf of his spouse, then he also has a right of access to his spouse’s Texas driver’s license information pursuant to section 552.023. If the requestor is not seeking the information as his spouse’s authorized representative, then the department must withhold her Texas driver’s license information, which we have marked, under section 552.130 of the Government Code. In either event, the department must withhold the marked driver’s license and Texas motor vehicle information not belonging to the requestor or his spouse under section 552.130 of the Government Code.² The remaining information must be released.³

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. 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 and license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

³We note the information being released contains information to which the requestor has a right of access. *See* Gov’t Code § 552.023(a); ORD 481 at 4. Thus, if the department receives another request for this particular information from a different requestor, then the department should again seek a decision from this office.

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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/eeg

Ref: ID# 412061

Enc. Submitted documents

cc: Requestor
(w/o enclosures)