



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 3, 2011

Ms. Tiffany Bull  
Assistant City Attorney  
Arlington Police Department  
P.O. Box 1065  
Arlington, Texas 76004-1065

OR2011-11173

Dear Ms. Bull:

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# 425840 (Arlington Ref. #4110-052011).

The Arlington Police Department (the "department") received a request for incident report number 000071817. 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. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This exception encompasses information protected by other statutes, such as section 261.201 of the Family Code, which provides in relevant part:

(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 . . . 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:

...

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

(3) the identity of the person who made the report.

Fam. Code § 261.201(a), (k), (l)(2)-(3). You state the submitted information was used or developed in an investigation under chapter 261. *See id.* § 261.001(1), (4) (defining “abuse” for purposes of section 261.201); *id.* § 101.003(a) (defining “child” as a person under eighteen years of age who is not and has not been married and who has not had the disabilities of minority removed for general purposes). Thus, the submitted information is generally confidential under section 261.201 of the Family Code.

We note, however, that the requestor asserts she is the managing conservator of the child victim. Further, this individual is not alleged to have committed the suspected abuse. We are unable to determine whether the requestor is the child’s managing conservator or other legal representative for purposes of section 261.201(k). Thus, we must rule conditionally. If the requestor is not the child’s managing conservator or other legal representative for purposes of section 261.201(k), the department must withhold the submitted report in its entirety under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. If the requestor is the child’s managing conservator

or other legal representative, the department may not use section 261.201(a) to withhold this report from this requestor. *Id.* § 261.201(k). However, we note section 261.201(1)(3) states the identity of the reporting party must be withheld. *Id.* § 261.201(1)(3). Accordingly, the department must withhold the identifying information of the reporting party, which we have marked, under section 261.201(1)(3) of the Family Code. Further, section 261.201(1)(2) states any information that is excepted from required disclosure under the Act or other law must be withheld from disclosure. *Id.* § 261.201(1)(2). Accordingly, we will consider whether any of the submitted information is excepted under section 552.130 of the Government Code.<sup>1</sup>

Section 552.130(a)(1) provides that information relating to a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country is excepted from public release. Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov't Code § 552.130). Accordingly, the department must withhold the driver's license number we have marked pursuant to section 552.130 of the Government Code.<sup>2</sup>

In summary, if the requestor is not the managing conservator or other legal representative of the child listed in the submitted report for purposes of section 261.201(k) of the Family Code, the department must withhold the submitted report in its entirety under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. If the requestor is the managing conservator or other legal representative of the child for purposes of section 261.201(k) of the Family Code, the department must release the submitted report to this requestor; however, the department must withhold the identifying information of the reporting party we have marked under 552.101 of the Government Code in conjunction with section 261.201(1)(3) of the Family Code and the Texas driver's license number we have marked under section 552.130 of the Government Code.<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, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

<sup>2</sup>We 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 a Texas driver's license number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

<sup>3</sup>In this case, the remaining information being released contains confidential information regarding the alleged child victim to which the requestor has a right of access as the child's conservator or legal representative. *See* Fam. Code § 261.201(k). 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](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,

A handwritten signature in blue ink, appearing to read 'Vanessa Burgess', with a long horizontal line extending to the right.

Vanessa Burgess  
Assistant Attorney General  
Open Records Division

VB/dls

Ref: ID# 425840

Enc. Submitted documents

c: Requestor  
(w/o enclosures)