



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 14, 2011

Ms. Lillian Guillen Graham
Assistant City Attorney
City of Mesquite
P.O. Box 850137
Mesquite, Texas 75185-0137

OR2011-13271

Dear Ms. Graham:

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# 431285.

The Mesquite Police Department (the "department") received a request for two specified offense reports. You claim the requested information is excepted from disclosure under sections 552.101, 552.130, and 552.147 of the Government Code. 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." Section 552.101 encompasses information made confidential by other statutes, including 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, other than the [Texas Department of Family and Protective Services] 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; and

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

Fam. Code § 261.201(a), (k), (l). You assert the submitted information was used or developed in an investigation of alleged or suspected child abuse under chapter 261 of the Family Code. *See id.* § 261.001(1) (defining “abuse” for purposes of section 261.201 of Family Code). Upon review, we find you have not established incident report number LPD110618064138 was used or developed in an investigation of alleged or suspected child abuse or neglect under chapter 261 of the Family Code. Therefore, this report is not confidential under section 261.201, and the department may not withhold it under section 552.101 on that ground.

We agree incident report number LPD11061603417 is within the scope of section 261.201(a). However, the requestor is a parent of the child victim and is not alleged to have committed the suspected abuse. Thus, the department may not withhold this report

from this requestor on the basis of section 261.201(a). *See id.* § 261.201(k). Nevertheless, we note the report includes personally identifiable information of a witness under eighteen years of age who does not appear to be a child of the requestor. Section 261.201(1)(1) provides that before a record concerning a child can be copied or inspected by the child's parent, managing conservator, or other legal representative under section 261.201(k), any personally identifiable information about a victim or witness under 18 years of age who is not the parent's, managing conservator's, or other legal representative's child must be redacted. *See id.* § 261.201(1)(1). Thus, the department must withhold the information of this child witness, which we have marked, under section 552.101 in conjunction with section 261.201(1)(1). In addition, section 261.201(1)(3) provides that the identity of the reporting party must be withheld; therefore, the department must withhold the identifying information of the reporting party in incident report number LPD11061603417, which we have also marked, under section 552.101 in conjunction with section 261.201(1)(3). Furthermore, section 261.201(1)(2) states any information that is excepted from required disclosure under the Act or other law may still be withheld from disclosure. *Id.* § 261.201(1)(2). Thus, we must address your arguments under sections 552.130 and 552.147 for this report, as well as the remaining information.

Section 552.130(a) of the Government Code provides the following:

Information is excepted from the requirements of Section 552.021 if the information relates to:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country;
- (2) a motor vehicle title or registration issued by an agency of this state or another state or country; or
- (3) a personal identification document issued by an agency of this state or another state or country or a local agency authorized to issue an identification document.

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). The department must withhold the motor vehicle record information you have marked under section 552.130.¹

You assert some of the remaining information is excepted from disclosure under section 552.147 of the Government Code, which provides "[t]he social security number of a living person is excepted from" required public disclosure under the Act. Gov't Code

¹We 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 and Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general opinion.

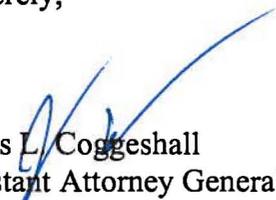
§ 552.147(a). The department may withhold the social security number you have marked in the submitted information under section 552.147.²

To conclude, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 261.201(1)(1) and 261.201(1)(3) of the Family Code, as well as the information marked under section 552.130 of the Government Code. The department may withhold the submitted information marked under section 552.147 of the Government Code. The department must release the remaining information.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 departments 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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/eb

Ref: ID# 431285

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²We note 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. See Gov't Code § 552.147.

³Because the requestor has a special right of access to the information being released, the department must again seek a decision from this office if it receives another request for the same information from another requestor.