



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 6, 2012

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

OR2012-01820

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# 444488 (APD Ref. No. 5959-111711).

The Arlington Police Department (the "department") received a request for a specified incident report. 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.

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) Except as provided by Section 261.203, the 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 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:

...

(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)(2), (3). Upon review, we agree submitted information was used or developed in an investigation of alleged child abuse. *See id.* § 261.001(1) (defining “abuse” for purposes of chapter 261 of the Family Code); *see also id.* § 101.003(a) (defining “child” for purposes of this section as person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes). Therefore, we find the submitted information is generally confidential under section 261.201 of the Family Code.

However, we note the requestor is the step-parent of the child victim in this report and he is not alleged to have committed the alleged abuse. As such, this requestor may have a right of access to the information at issue pursuant to section 261.201(k). *Id.* § 261.201(k). Thus, if the requestor is not the child victim’s parent, managing conservator, or legal representative, then the submitted information must be withheld in its entirety from the requestor under section 552.101 in conjunction with section 261.201 of the Family Code. On the other hand,

if the requestor is the child's parent, managing conservator, or legal representative, the department may not use section 261.201(a) to withhold this information from the requestor. *Id.* § 261.201(k). Nonetheless, before the department provides information concerning this report, it must redact the identity of the persons who made the report of abuse. *Id.* § 261.201(l)(3). Additionally, section 261.201(l)(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(l)(2).

We note some of the submitted information is subject to section 552.130 of the Government Code.¹ Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130). Upon review, we find portions of the submitted information consist of motor vehicle record information. Accordingly, the department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

In summary, if the requestor is not the parent, managing conservator, or legal representative of the child at issue in the submitted information, the department must withhold this information in its entirety under section 552.101 of the Government Code in conjunction with 261.201 of the Family Code. In the event the requestor is the parent, managing conservator, or legal representative of the child in the submitted information, then the department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code, and the reporting parties' identifying information we have marked under section 552.101 of the Government Code in conjunction with section 261.201(l)(3) of the Family Code. The remaining information must be released.²

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,

¹The 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).

²In the event the requestor is the parent, managing conservator, or legal representative of the child victim, he has a special right of access to the information being released in this instance. *See* Fam. Code § 261.201(k). Because such information is confidential with respect to the general public, if the department receives another request for this information from a different requestor, the department must again seek a ruling from this office.

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 cursive script that reads "Sean Opperman".

Sean Opperman
Assistant Attorney General
Open Records Division

SO/dls

Ref: ID# 444488

Enc. Submitted documents

c: Requestor
(w/o enclosures)