



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 14, 2012

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

OR2012-09176

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# 456236.

The City of Mesquite (the "city") received a request for a specified report. You claim the submitted 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." Gov't Code § 552.101. This exception encompasses information that other statutes make confidential such as section 261.201(a) of the Family Code, which provides in pertinent 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:

...

(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). Upon review, we agree the submitted information was used or developed by the city's police department in its investigation of alleged or suspected child abuse. *See id.* § 261.001(1)(E) (definition of child abuse includes sexual assault under Penal Code section 22.011); *see also* Penal Code § 22.011(c)(1) (defining "child" for purposes of Penal Code section 22.011 as person under 17 years of age). Accordingly, we conclude this information is within the scope of section 261.201. However, the submitted information reveals that the requestor may be a parent, managing conservator, or other legal representative of the alleged child victim at issue. Furthermore, the requestor is not the individual alleged to have committed the abuse. Thus, if the requestor is not a parent, managing conservator, or other legal representative of the child victim, then the city must withhold the submitted information 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 victim's parent, managing conservator, or other legal representative, then the city may not use section 261.201(a) to withhold this information from the requestor. *See* Fam. Code § 261.201(k). However, before the city provides any of the submitted information to the requestor, the city must redact the identity of the person who made the report. *See id.* § 261.201(l)(3). Accordingly, the city must withhold the identifying information of the reporting party, which we have marked, under section 552.101 in conjunction with section 261.201(l)(3) of the Family Code. We note the city also must redact any information that is otherwise excepted from required disclosure under the Act.

*See id.* § 261.201(1)(2). As you raise sections 552.130 and 552.147 of the Government Code for portions of the remaining information, we will consider their applicability.

Section 552.130(a)(1) of the Government Code provides that information relating to a motor vehicle operator's or driver's license or permit issued by any agency of this state or another state or country is excepted from public release. Gov't Code § 552.130(a)(1). The city must withhold the driver's license number you have marked in the remaining information under section 552.130(a)(1) of the Government Code.<sup>1</sup>

Section 552.147(a) of the Government Code provides that "[t]he social security number of a living person is excepted from" required public disclosure. *See id.* § 552.147(a). The city may withhold the social security number you have marked in the remaining information under section 552.147 of the Government Code.<sup>2</sup>

In summary, if the requestor is not a parent, managing conservator, or other legal representative of the alleged child victim at issue, then the city must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. However, if the requestor is the child victim's parent, managing conservator, or other legal representative, then the city may not withhold this information from the requestor under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Government Code. The city, however, must withhold the identifying information of the reporting party we have marked under section 552.101 of the Government Code in conjunction with section 261.201(1)(3) of the Family Code, and the driver's license number you have marked in the remaining information under section 552.130(a)(1) of the Government Code. The city may withhold the social security number you have marked in the remaining information under section 552.147(a) of the Government Code. The city must release the remaining information.

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),

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<sup>1</sup>We note the Texas legislature amended section 552.130 of the Government Code effective September 1, 2011, to allow a governmental body to redact the information described in subsections 552.130(a)(1) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

<sup>2</sup>We 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(b).

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 black ink, appearing to read 'KLC', with a long horizontal flourish extending to the right.

Kenneth Leland Conyer  
Assistant Attorney General  
Open Records Division

KLC/dls

Ref: ID# 456236

Enc. Submitted documents

c: Requestor  
(w/o enclosures)