



**ATTORNEY GENERAL OF TEXAS**  
**GREG ABBOTT**

September 10, 2012

Mr. Jason Day  
City Attorney  
City of Royse City  
P.O. Box 638  
Royse City, Texas 75189

OR2012-14265

Dear Mr. Day:

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# 464915 (RCCA12-0135).

The City of Royse City (the "city") received a request for a specified police report involving a named individual. 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. This section encompasses information protected by other statutes. Section 261.201 of the Family Code provides, in relevant part, as follows:

(a) [T]he 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.

...

(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[.]

Fam. Code § 261.201(a), (k), (l)(1)-(l)(2). Upon review, we agree the submitted information was used or developed by the city's police department in an investigation of alleged or suspected child abuse. *See id.* § 261.001(1)(E) (definition of "abuse" includes indecency with a child and sexual assault under Penal Code sections 21.11 and 22.011); *see also* Penal Code §§ 21.11 (defining "child" for purposes of section 21.11 as a minor younger than 17 years of age), 22.011(c)(1) (defining "child" for purposes of section 22.011 as "a person younger than 17 years of age"). Accordingly, we find the submitted information is generally confidential pursuant to section 261.201 of the Family Code.

However, we note the requestor is the step-parent of the child victim in this report and she 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). Fam. Code § 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 city may not use section 261.201(a) to withhold this information from the requestor. *Id.* § 261.201(k). However, section 261.201(l)(1) states any personally identifiable information about a victim or witness who is under 18 years of age and is not a child of the parent shall be withheld from disclosure. *Id.* § 261.201(l)(1). Thus, the city must withhold the personally identifiable information of witnesses who are under 18 years of age and are not the requestor's child, which we have marked, under section 552.101 of the Government Code in conjunction with section 261.201(l)(1). Further, section 261.201(l)(2) states any information that is excepted from required disclosure under the Act or other law must 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.<sup>1</sup> Section 552.130 excepts from public release information related to a motor vehicle operator's or driver's license issued by a Texas agency or an agency of another state or country. Gov. Code § 552.130. Therefore, the city must withhold the driver's license number we have marked in the submitted report under section 552.130.

In summary, if the requestor is not the parent, managing conservator, or legal representative of the child at issue in the submitted information, the city 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 city must withhold the personally identifiable information of witnesses who are under 18 years of age and are not the requestor's child, which we have marked, under section 552.101 of the Government Code in conjunction with section 261.201(l)(1) of the Family Code, and information we have marked under section 552.130 of the Government Code. The remaining information must be released.<sup>2</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>In the event the requestor is the parent, managing conservator, or legal representative of the child victim, she 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 city receives another request for this information from a different requestor, the city must again seek a ruling 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,



Sean Opperman  
Assistant Attorney General  
Open Records Division

SO/som

Ref: ID# 464915

Enc. Submitted documents

c: Requestor  
(w/o enclosures)