



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 26, 2013

Ms. Rachel L. Lindsay
Counsel for the Town of Flower Mound
Brown & Hofmeister, L.L.P.
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2013-06908

Dear Ms. Lindsay:

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# 485402.

The Town of Flower Mound (the "town"), which you represent, received a request for information pertaining to a specified incident involving a named individual and the requestor's child. You state the town has released some of the requested information. You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note a portion of the submitted audio recording, which we have indicated, is not responsive to the instant request because it does not pertain to the specified incident. The town need not release nonresponsive information in response to this request, and this ruling will not address that 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) [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). Upon review, we find the responsive information pertains to an investigation of the offense of driving while intoxicated with a child passenger and was used by the town's police department in an investigation of alleged child abuse. Accordingly, the submitted information falls within the scope of section 261.201(a) of the Family Code. *See id.* § 261.001(1) (defining "abuse" for purposes of chapter 261 of the Family Code).

We note, however, the requestor is a parent of one of the child victims at issue, and the parent is not alleged to have committed the suspected abuse. In this instance, the submitted information may not be withheld from this requestor under section 261.201(a). *Id.* § 261.201(k). However, subsections 261.201(l)(1) and 261.201(l)(3) state the personally identifiable information of a victim or witness under the age of eighteen who is not the requestor's child and the identity of the reporting party must be withheld. *Id.* § 261.201(l)(1), (3). We note a reporting party's voice tends to reveal the reporter's identity. Accordingly, the town must withhold the responsive portion of the audio recording in its entirety under section 552.101 in conjunction with section 261.201(l)(3).¹ Further, the town must withhold the identifying information we have indicated from the submitted video recording under section 552.101 in conjunction with sections 261.201(l)(1) and 261.201(l)(3). We also note section 261.201(l)(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(l)(2). You raise section 552.130 of the Government Code as an exception to disclosure. Therefore, we will address the applicability of this section to the remaining responsive information.

Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle operator's license or driver's license or a motor vehicle title or registration issued by a Texas agency, or an agency of another state or country. *See Gov't Code* § 552.130(a)(1)-(2). Upon review, we find the town must withhold the motor vehicle record information we have marked and the information we have indicated from the remaining portions of the video recording under section 552.130 of the Government Code.

In summary, the town must withhold the responsive portion of the audio recording in its entirety under section 552.101 of the Government Code in conjunction with section 261.201(l)(3) of the Family Code. The town must withhold the identifying information we have indicated from the submitted video recording under section 552.101 of the Government Code in conjunction with sections 261.201(l)(1) and 261.201(l)(3) of the Family Code. The town must withhold the motor vehicle record information we have

¹As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

marked and indicated under section 552.130 of the Government Code. The remaining responsive information must be released to this requestor.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, 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,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/som

Ref: ID# 485402

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²Because the requestor has a right of access to certain information that otherwise would be excepted from release under the Act, the town must again seek a decision from this office if it receives a request for this information from a different requestor.