



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 21, 2013

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

OR2013-10491

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# 491035.

The Mesquite Police Department (the "department") received a request for a specified report. You state the department will redact some information pursuant to Open Records Letter No. 2012-07334 (2012).<sup>1</sup> 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. Section 552.101 encompasses section 261.201 of the Family Code, which provides, in part, 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

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<sup>1</sup>Open Records Letter No. 2012-07334 is a previous determination issued to the department authorizing it to withhold FBI numbers under section 552.101 of the Government Code in conjunction with chapter 411 of the Government Code and federal law, without requesting a ruling from this office.

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[.]

Fam. Code § 261.201(a), (k), (l)(2). Upon review, we find the submitted information was used or developed by the department in an investigation of alleged child abuse or neglect. *See id.* § 261.001(1) (defining “abuse” for purposes of chapter 261 of the Family Code); *see also* Penal Code § 22.04(c) (defining “child” for purposes of injury to a child as a person 14 years of age or younger). Accordingly, we find the submitted information is subject to chapter 261 of the Family Code. We note, however, the requestor, who is not alleged to have committed the suspected abuse, may be a managing conservator or other legal representative of the child victim. *See* Fam. Code § 261.201(k). Thus, we must rule conditionally. If the requestor is not a managing conservator or other legal representative of the child victim, the department must withhold the submitted information in its entirety under section 552.101 in

conjunction with section 261.201(a) of the Family Code. If, however, the requestor is a managing conservator or other legal representative of the child victim, the department may not use section 261.201(a) to withhold the submitted information from this requestor. *Id.* In that instance, we note section 261.201(1)(2) states that 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). Accordingly, we will address your remaining arguments against disclosure.

Section 552.130 of the Government Code excepts from disclosure “information [that] relates to . . . a motor vehicle operator’s or driver’s license or permit issued by an agency of this state or another state or country[.]” Gov’t Code § 552.130(a)(1). Upon review, we find the department must withhold the information you have marked under section 552.130 of the Government Code.

Section 552.147 of the Government Code provides “[t]he social security number of a living person is excepted from” required public disclosure under the Act.<sup>2</sup> *Id.* § 552.147(a). The department may withhold the social security number you have marked under section 552.147 of the Government Code.

In summary, if the requestor is not a managing conservator or other legal representative of the child victim, the department 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 a managing conservator or other legal representative of the child victim, the department must withhold the information you have marked under section 552.130 of the Government Code, may withhold the social security number you have marked under section 552.147 of the Government Code, and must release the remaining information.<sup>3</sup>

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.texasattorneygeneral.gov/open/>

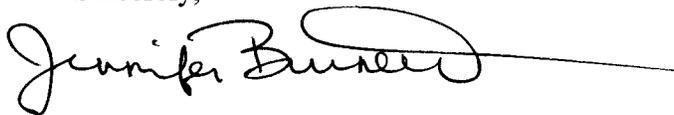
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<sup>2</sup>Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person’s social security number from public release without the necessity of requesting an attorney general decision under the Act. *See* Gov’t Code § 552.147(b).

<sup>3</sup>In this instance, we note the requestor has a special right of access to the information being released pursuant to section 261.201(k) of the Family Code. Accordingly, if the department receives a request for this information from a different requestor, then the department must again seek a decision from this office.

[orl\\_ruling\\_info.shtml](#), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer Burnett", with a long horizontal line extending to the right.

Jennifer Burnett  
Assistant Attorney General  
Open Records Division

JB/tch

Ref: ID# 491035

Enc. Submitted documents

c: Requestor  
(w/o enclosures)