



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 12, 2013

Mr. Todd Stephens  
Assistant City Attorney  
City of Odessa  
P.O. Box 4398  
Odessa, Texas 79760-4398

OR2013-21698

Dear Mr. Stephens:

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# 508480.

The City of Odessa (the "city") received two requests from different requestors for case number 13-20893; the second requestor also requested case number 13-21177. The city received an additional request from the second requestor for the 9-1-1 audio and call logs associated with case numbers 13-20893 and 13-21177. You claim 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:

...

(2) any information that is excepted from required disclosure under [the Act], or other law[.]

Fam. Code § 261.201(a), (k), (l)(2). You assert the submitted information relates to investigations of child abuse or neglect conducted by the city's police department (the "department"). *See id.* § 261.001(1), (4) (defining "abuse" and "neglect" 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). Upon review, we find you have failed to demonstrate how case number 13-21177 and all related audio and call logs, which pertain to an investigation of alleged deadly assault involving two adults, was used or developed in an investigation under chapter 261 of the Family Code. *See id.* § 261.001(1), (4). Accordingly, the city may not withhold case number 13-21177 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. However, we find case number 13-20893 and the portions we have marked in case

number 13-21177, as well as all related audio and call logs, are subject to chapter 261 of the Family Code.

We note the second requestor is the child's mother and is alleged to have committed the suspected abuse or neglect. Thus, this requestor does not have a right of access to this information under section 261.201(k). *See id.* § 261.201(k). Accordingly, the city must withhold case number 13-20893 and the portions we have marked in case number 13-21177, as well as all related audio and call logs, in their entirety from the second requestor under section 552.101 of the Government Code in conjunction with section 261.201(k) of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute).

The first requestor is the step-parent of the child victim listed in case number 13-20893 and is not alleged to have committed the abuse or neglect. As such, this requestor may have a right of access to case number 13-20893 and all related audio and call logs 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 information at issue 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 victim'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). Pursuant to section 261.201(1)(2), the city must redact any information that is otherwise excepted from required disclosure under the Act. *See id.* § 261.201(1)(2). Thus, we will address the applicability of section 552.130 of the Government Code to the information at issue.<sup>1</sup>

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, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130(a). We note section 552.130 protects personal privacy. Accordingly, each requestor has a right of access to his or her own motor vehicle record information under section 552.023 of the Government Code and it may not be withheld under section 552.130. *See id.* § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Thus, the city must withhold the motor vehicle record information we have marked in case number 13-20893 from the first requestor and the information we have marked in case number 13-21177 from the second requestor under section 552.130 of

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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).

the Government Code.<sup>2</sup> To the extent the information we have indicated in the audio recordings pertains to case number 13-21177, then that information must also be withheld from the second requestor under section 552.130.

In summary, the city must withhold case number 13-20893 and the portions we have marked in case number 13-21177, as well as all related audio and call logs, in their entirety from the second requestor under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. If the first requestor is not the child victim's parent, managing conservator, or legal representative, then case number 13-20893 and all related audio and call logs must also be withheld in their entirety from the first requestor under section 552.101 in conjunction with section 261.201 of the Family Code. In the event the first requestor is the child victim's parent, managing conservator, or legal representative, then the city must withhold the information we have marked in case number 13-20893 under section 552.130 of the Government Code and release the remaining information to this requestor.<sup>3</sup> With regards to case number 13-21177, the city must withhold from the second requestor the information we have marked, as well as the information we have indicated in the submitted audio recordings if the recording pertains to case number 13-21177, under section 552.130 of the Government Code and release the remaining information to this requestor.<sup>4</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\\_orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open_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

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<sup>2</sup>We note section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) 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>3</sup>We note the information being released in this instance contains the second requestor's social security number. 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>4</sup>We note the information being released in this instance contains the first requestor's social security number. As previously noted, 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).

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 cursive script that reads "Britni Fabian".

Britni Fabian  
Assistant Attorney General  
Open Records Division

BF/tch

Ref: ID# 508480

Enc. Submitted documents

c: Two Requestors  
(w/o enclosures)

