



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 26, 2016

Ms. Ileana Fernandez
Assistant City Attorney
City of Mesquite
P.O. Box 850137
Mesquite, Texas 75185-0137

OR2016-23956

Dear Ms. Fernandez:

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# 631909.

The Mesquite Police Department (the "department") received a request for information pertaining to calls for service involving a specified telephone number and two specified incident reports. You state the department will redact public citizens' dates of birth pursuant to Open Records Letter No. 2015-24970 (2015).¹ You claim 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.

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 made confidential by other statutes, such as section 261.201 of the Family Code, which provides, in relevant 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

¹Open Records Letter No. 2015-24970 authorizes the department to withhold public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy 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 . . . 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.

Fam. Code § 261.201(a), (k). Upon review, we find report number 160724074578 was used or developed in an investigation conducted under chapter 261 of the Family Code, so as to fall within the scope of section 261.201(a). *See id.* §§ 101.003(a) (defining “child” for purposes of section 261.201), 261.001(1), (4) (defining “abuse” and “neglect” for purposes of section 261.201 of Family Code). Thus, report number 160724074578 is confidential under 261.201 of the Family Code. Although the requestor is a parent of the child victim listed in the submitted information, we note the requestor is alleged to have committed the alleged abuse or neglect. Thus, the requestor does not have a right of access to the submitted information under section 261.201(k). *Id.* § 261.201(k). Accordingly, the department must withhold report number 160724074578 under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.² However, we find the department has not demonstrated the remaining report was used or developed in an investigation of alleged or suspected child abuse or neglect under chapter 261. Accordingly, report

²Although you assert the requestor may have a right of access to some of the submitted information under section 261.201(g) of the Family Code, we note section 261.201(g) applies to the Texas Department of Family and Protective Services (“DFPS”), not the department. *See* Fam. Code § 261.201(g) (DFPS, upon request and subject to own rules, shall provide to parent, managing conservator, or legal representative of child victim information concerning reported abuse or neglect with identity of person who made report redacted).

number 160801077410 is not confidential under section 261.201(a) of the Family Code, and no portion of it may be withheld on that basis.

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). Although you raise section 552.130 for report number 160801077410, we find this report does not contain any motor vehicle record information. Thus, no portion of report number 160801077410 may be withheld under section 552.130 of the Government Code.

In summary, the department must withhold report number 160724074578 under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. The department must release report number 160801077410.

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, 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,



Kieran Hillis
Assistant Attorney General
Open Records Division

KH/akg

Ref: ID# 631909

Enc. Submitted documents

c: Requestor
(w/o enclosures)