



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 3, 2014

Mr. Todd Stephens
Police Legal Advisor
City Attorney's Office
City of Odessa
P.O. Box 4398
Odessa, Texas 79760-4398

OR2014-00138

Dear Ms. 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# 509709.

The Odessa Police Department (the "department") received two requests from the same requestor for information pertaining to a specified arrest of a named individual. 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; and

(3) the identity of the person who made the report.

Fam. Code § 261.201(a), (k), (l)(2)-(3). The submitted information consists of a report of alleged or suspected child abuse or neglect made to the department. *See id.* §§ 261.001 (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code), 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). Accordingly, we find this information is subject to chapter 261 of the Family Code. However, we note the requestor is a representative of Court Appointed Special Advocates, and may be a managing conservator or other legal representative of the child victim and is not alleged to have committed the suspected abuse. Thus, we rule conditionally. If the requestor is not a managing conservator or other legal representative of the child victim, then 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.

However, if the requestor is a managing conservator or other legal representative of the child victim, then the department may not withhold the submitted information from this requestor under section 552.101 of the Government Code on the basis of section 261.201(a) of the Family Code. *See id.* § 261.201(k). However, section 261.201(1)(3) states the identity of the reporting party shall be withheld from disclosure. *Id.* § 261.201(1)(3). Thus, the department must withhold this information, which we have marked, under section 552.101 of the Government Code in conjunction with section 261.201(1)(3) of the Family Code. In addition, section 261.201(1)(2) states any information that is excepted from required disclosure under the Act or other law must be redacted. *Id.* § 261.201(1)(2). Thus, if the requestor is a managing conservator or other legal representative of the child victim, then we must determine whether any of the remaining information is otherwise excepted from release under the Act.

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.¹ *See* Gov't Code § 552.130. Accordingly, if the requestor is a managing conservator or other legal representative of the child victim, the department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.²

In summary, if the requestor is not a managing conservator or other legal representative of the child victim, then 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, then the department must (1) withhold the identity of the reporting party, which we marked, under section 552.101 of the Government Code in conjunction with section 261.201(1)(3) of the Family Code; (2) withhold the motor vehicle record information

¹The 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).

²We note section 552.130 of the Government Code allows a governmental body to redact the information described in subsection 552.130(a)(2) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). However, 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).

we have marked under section 552.130 of the Government Code; and (3) release the remaining information to this requestor.³

You ask this office to issue a previous determination that would permit the department in the future to withhold from disclosure information made confidential under section 261.201 of the Family Code without the need of requesting a ruling from us about whether such information can be withheld from disclosure. We decline to issue such a previous determination at this time. Therefore, 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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 509709

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³We note the information being released in this instance contains social security numbers. 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 a decision from this office. *See* Gov't Code § 552.147(b).