



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 15, 2014

Ms. Sarah R. Martin  
Assistant City Attorney  
Arlington Police Department  
Mail Stop 04-0200  
P.O. Box 1065  
Arlington, Texas 76004-1065

OR2014-18470

Dear Ms. Martin:

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# 539376 (Arlington Police Dept. Ref. No. 16516).

The Arlington Police Department (the "department") received a request for any and all documents, memoranda, and other written materials dealing with a named individual, including information pertaining to a specific meeting, and a copy of a video recording showing people entering and exiting the Arlington Independent School District Central Administration building at a specific time. 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.

Initially, we note you have not submitted information pertaining to the specified meeting or a copy of the requested video recording for our review. To the extent such information existed when the present request was received, we assume it has been released. If such information has not been released, then it must be released at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

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 section 261.201 of the Family Code,<sup>1</sup> which provides:

(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 [chapter 261 of the Family Code] 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 [chapter 261 of the Family Code] or in providing services as a result of an investigation.

Fam. Code § 261.201(a). Upon review, we find the information contained in Exhibit C was used or developed in an investigation of alleged child abuse, and the information falls within the scope of section 261.201 of the Family Code. *See id.* §§ 101.003(a) (defining “child” for purposes of chapter 261 of the Family Code), 261.001 (defining “abuse” for purposes of chapter 261). As you do not indicate that the department has adopted a rule that governs the release of this type of information, we assume no such regulation exists. Given that assumption, we conclude the information contained in Exhibit C is confidential under section 261.201(a) of the Family Code and must be withheld in its entirety under section 552.101 of the Government Code.<sup>2</sup>

Section 552.101 of the Government Code also encompasses section 21.12 of the Penal Code. Section 21.12(a) provides a public or private primary or secondary school employee commits an offense if the employee “engages in sexual contact, sexual intercourse, or deviate sexual intercourse with a person who is enrolled in a public or private primary or secondary school at which the employee works[.]” Penal Code § 21.12(a)(1). Further, section 21.12(d) provides “[t]he name of a person who is enrolled in a public or private primary or secondary school and involved in an improper relationship with an educator as provided by Subsection (a) may not be released to the public and is not public information under [the Act].” *Id.* § 21.12(d). Upon review, we find the remaining information does not identify a person who is enrolled in a public or private primary or secondary school and involved in an

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<sup>1</sup>The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

<sup>2</sup>As our ruling is dispositive, we need not address your argument against disclosure of this information.

improper relationship with an educator. *See id.* § 21.12(a). Therefore, the department may not withhold any of the remaining information under section 552.101 in conjunction with section 21.12(d).

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 a personal identification document issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130(a). Upon review, we find the department must withhold the motor vehicle record information in the photographs we have indicated and the information we have marked in the remaining documents under section 552.130 of the Government Code.

Section 552.136 of the Government Code states that "[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." *Id.* § 552.136. We note the purpose of section 552.136 is to protect the privacy interests of individuals. Because the right of privacy lapses at death, information that pertains solely to deceased individuals may not be withheld under section 552.136. *See Moore v. Charles B. Pierce Film Enters., Inc.*, 589 S.W.2d 489 (Tex. Civ. App.—Texarkana 1979, writ ref'd n.r.e.) (right of privacy is purely personal and lapses upon death); *see also Justice v. Belo Broadcasting Corp.*, 472 F. Supp. 145, 146-67 (N.D. Tex. 1979); Attorney General Opinions JM-229 (1984); H-917 (1976); Open Records Decision No. 272 at 1 (1981) (privacy rights lapse upon death). The photograph we have indicated contains insurance policy information belonging to a deceased individual. To the extent the information we have indicated pertains to an account in which a living individual has an interest, the department must withhold it under section 552.136 of the Government Code. However, if no living individual has an interest in the account, the department may not withhold the insurance policy information in the photograph we have indicated under section 552.136 of the Government Code.

In summary, the department must withhold Exhibit C under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. The department must withhold the motor vehicle record information in the photographs we have indicated and the information we have marked in the documents under section 552.130 of the Government Code. The department must withhold the insurance policy information in the photograph we have indicated under section 552.136 of the Government Code if the information pertains to an account in which a living individual has an interest. The remaining information must be released.

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 providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Rustam Abedinzadeh  
Assistant Attorney General  
Open Records Division

RA/dls

Ref: ID# 539376

Enc. Submitted documents

c: Requestor  
(w/o enclosures)