



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 16, 2015

Ms. Eileen M. Hayman  
Counsel for City of Colorado City  
Messer, Rockefeller, & Fort, P.L.L.C.  
4400 Buffalo Gap Road, Suite 2800  
Abilene, Texas 79606

OR2015-11891

Dear Ms. Hayman:

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# 567342.

The Colorado Police Department (the "department"), which you represent, received a request for all documents pertaining to a specified incident involving the requestor's child. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted information.

Initially, we note the requestor specifically excluded from her request any names of children other than her own child. Accordingly, this type of information is not responsive to the present request. This ruling does not address the public availability of any information that is not responsive to the request, and the department is not required to release such information in response to this request.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."

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<sup>1</sup>The department failed to comply with the procedural requirements of section 552.301 of the Government Code in requesting a decision from this office. *See* Gov't Code § 552.301(b). Nonetheless, section 552.101 of the Government Code is a mandatory exception that can provide a compelling reason to overcome the presumption of openness caused by failure to comply with section 552.301. *See id.* §§ 552.007, .302. Thus, we will address the applicability of this exception to the submitted information, notwithstanding the department's violation of section 552.301 in requesting this decision.

Gov't Code § 552.101. This section encompasses information protected 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 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.

(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:

(1) any personally identifiable information about a victim or witness under 18 years of age unless that victim or witness is:

(A) the child who is the subject of the report; or

(B) another child of the parent, managing conservator, or other legal representative requesting the information; [and]

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

Fam. Code § 261.201(a), (k)-(l)(1)-(2). The submitted information was used or developed in an investigation of alleged child abuse or neglect. *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 disabilities of minority removed for general purposes). Upon review, we find the information at issue is generally confidential under section 261.201(a) of the Family Code. The requestor, however, is a parent of the child victim listed in the submitted information, and the requestor is not suspected of having committed the alleged abuse or neglect. In this instance, the department may not use section 261.201(a) to withhold the submitted information from this requestor. *Id.* § 261.201(k).

Section 261.201(l)(1), however, states the personally identifiable information of a victim or witness who is under the age of eighteen and is not a child of the parent, managing conservator, or other legal representative requesting the information must be withheld from disclosure. *Id.* § 261.201(l)(1). Thus, the department must withhold the identifying information we have marked under section 552.101 of the Government Code in conjunction with section 261.201(l)(1) of the Family Code.<sup>2</sup> Further, section 261.201(l)(2) states any information that is excepted from required disclosure under the Act or other law may still be withheld from disclosure. *Id.* § 261.201(l)(2). We note some of the remaining information is subject to section 552.130 of the Government Code.<sup>3</sup> We will, therefore, consider the applicability of section 552.130 of the Government Code to the remaining information.

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. Accordingly, the department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

In summary, the names of children other than the requestor’s child are not responsive to the request and need not be released. The department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 261.201(l)(1) of the Family Code. The department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. The department must release the remaining information to this requestor.<sup>4</sup>

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

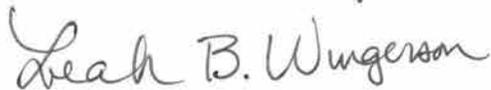
<sup>3</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See Open Records Decision Nos.* 481 (1987), 480 (1987), 470 (1987).

<sup>4</sup>We note the remaining information includes a 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 a decision from this office under the Act. *Gov’t Code* § 552.147(b).

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,

A handwritten signature in cursive script that reads "Leah B. Wingerson".

Leah B. Wingerson  
Assistant Attorney General  
Open Records Division

LBW/bhf

Ref: ID# 567342

Enc. Submitted documents

c: Requestor  
(w/o enclosures)