



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 30, 2017

Mr. Jason Day
City Attorney
City of Royse City
P.O. Box 638
Royse City, Texas 75189

OR2017-06627

Dear Mr. Day:

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# 651240 (ORR# RCCA17-01-0016).

The Royse City Police Department (the "department") received a request for information related to a specified incident. 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 protected by section 261.201 of the Family Code, which 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 Juvenile Justice Department, 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). You claim the submitted reports are confidential pursuant to section 261.201 of the Family Code. Upon review, we find you have not demonstrated report number 16-09-0066 was used or developed in an investigation of alleged or suspected child abuse or neglect under section 261.201(a)(2). Furthermore, you have not established the information is a report of alleged or suspected abuse or neglect made under section 261.201(a)(1). *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of Fam. Code ch. 261). Therefore, the department may not withhold report number 16-09-0066 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

Upon review, however, we find report numbers 16-09-0065 and 16-09-0068 were used or developed in investigations of alleged or suspected child abuse or neglect by the department. *See 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), 261.001(1), (4). Accordingly, we find this information is subject to chapter 261 of the Family Code. You state the department has not adopted a rule that governs the release of this type of information. Therefore, we conclude the department must withhold report number 16-09-0068 under section 552.101 of the Government Code

in conjunction with section 261.201 of the Family Code.¹ *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute).

However, we note the requestor is a parent of the child victims listed in report number 16-09-0065, and is not alleged to have committed the abuse or neglect. Thus, pursuant to section 261.201(k), report number 16-09-0065 may not be withheld from this requestor under section 552.101 of the Government Code on the basis of section 261.201(a). *See id.* § 261.201(k). However, section 261.201(l)(3) states the identity of the reporting party shall be withheld from disclosure. *Id.* § 261.201(l)(3). Accordingly, we find the department must withhold the identifying information of the reporting party in report number 16-09-0065, which we have marked, under section 552.101 of the Government Code in conjunction with section 261.201(l)(3) of the Family Code. Moreover, section 261.201(l)(2) states any information that is excepted from required disclosure under the Act or other law must still be withheld from disclosure. *Id.* § 261.201(l)(2). Accordingly, we will consider your remaining arguments against disclosure of report number 16-09-0065 as well as of report number 16-09-0066.

Section 552.101 of the Government Code also encompasses juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997, which are confidential under section 58.007(c) of the Family Code. Section 58.007(c) reads as follows:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

- (1) if maintained on paper or microfilm, kept separate from adult files and records;
- (2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and
- (3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapters B, D, and E.

Id. § 58.007(c). For purposes of section 58.007(c), “child” means a person who is ten years of age or older and under seventeen years of age at the time of the reported conduct. *See id.* § 51.02(2). We note section 58.007(c) applies only to law enforcement records that involve a juvenile as a suspect, offender, or defendant. Section 58.007(c) does not apply to law

¹As our ruling is dispositive for this information, we need not address your remaining argument against its disclosure.

enforcement records that relate to a juvenile only as a complainant, victim, witness, or other involved party. You argue the remaining information is subject to section 58.007(c) of the Family Code. Upon review, we find the remaining information does not list a juvenile as a suspect, offender, or defendant. Thus, you have not demonstrated the remaining information involves juvenile conduct for purposes of section 58.007(c) of the Family Code. Accordingly, no portion of the remaining information may be withheld under section 552.101 of the Government Code 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. Upon review, we find portions of the submitted information consist of motor vehicle record information. You state the department will redact certain motor vehicle record information pursuant to the previous determination issued in Open Records Decision No. 684 (2009).² The department must also withhold the additional motor vehicle record information we have marked under section 552.130 of the Government Code.

In summary, the department must withhold report number 16-09-0068 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. The department must withhold the identifying information of the reporting party in report number 16-09-0065, which we marked, under section 552.101 of the Government Code in conjunction with section 261.201(1)(3) of the Family Code. The department must withhold the motor vehicle record information you marked and we marked under section 552.130 of the Government Code. The department must release the remaining information to this requestor.³

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.

²Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain information, including Texas license plate numbers under section 552.130(a)(2) of the Government Code, without the necessity of requesting an attorney general decision. 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). Thus, the statutory amendment to section 552.130 of the Government Code supercedes Open Records Decision No. 684. Therefore, the department may redact information subject to subsection 552.130(a)(2) only in accordance with section 552.130, not Open Records Decision No. 684.

³We note the requestor has a right of access to some of the information being released in this instance. If the department receives another request for this information from a different requestor, the department must again seek a ruling from this office. *See* Gov't Code §§ 552.301, .302; Open Records Decision No. 673 (2001).

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,

A handwritten signature in black ink that reads "Claire Morris Sloan". The signature is written in a cursive style with a long horizontal flourish at the end.

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 651240

Enc. Submitted documents

c: Requestor
(w/o enclosures)