



May 12, 2000

Lieutenant Brad Lancaster
Amarillo Police Department
200 E. 3rd
Amarillo, Texas 79101-1514

OR2000-1871

Dear Lieutenant Lancaster:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 136767.

The City of Amarillo (the "city") received a request for a police report on an assault. You seek to withhold the requested information under sections 552.101 and 552.108 of the Government Code.

Section 552.101 requires withholding information made confidential by statute. Section 261.201(a) of the Family Code provides:

The 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 [of a child] 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.* [Emphasis added.]

The information at issue is subject to section 261.201. You have not informed this office of any rules the city has adopted that would permit access to the requested records.

Accordingly, you must withhold the requested records in their entirety pursuant to section 261.201.¹ *But see* Fam. Code § 261.201(b) (provision for court ordered access), (g) limited right of access to records held by Department of Protective and Regulatory Services). Since we have disposed of this matter under section 261.201, we do not address your other claimed exceptions to disclosure.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

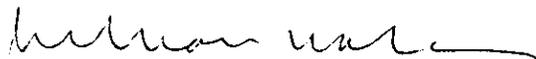
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

¹We note that although the city did not request an open records decision from this office within the ten business days following the city's receipt of the open records request, the confidentiality conferred on these records by section 261.201 of the Family Code constitutes a "compelling" reason for non-disclosure that overcomes the legal presumption that the records are public information. *See* Gov't Code § 552.302; Open Records Decision No. 150 (1977).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely



William Walker
Assistant Attorney General
Open Records Division

WMW/ljp

Ref: ID# 136767

Encl. Submitted documents

cc: Mr. Michael McCann
3809 South Washington
Amarillo, Texas 79110-1306
(w/o enclosures)