OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

April 14, 2003

Ms. Denise Obinegbo
Open Records Specialist
Richardson Police Department
P.O. Box 831078
Richardson, Texas 75083-1078

OR2003-2518

Dear Ms. Obinegbo:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 181666.

The City of Richardson Police Department (the "Department") received a request for records regarding calls for service in reference to a private residence and criminal history information of named individuals. You claim that some of the requested information is excepted from disclosure under sections 552.101 and 552.108(a)(2)of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that this request for information implicates certain named individuals' common-law privacy rights. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Common-law privacy is encompassed in section 552.101. For information to be protected from public disclosure by the common-law right of privacy the information must meet the criteria set out in *Industrial Foundation v. Texas Industrial Accident Board*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). In *Industrial Foundation*, the Texas Supreme Court stated that information is excepted from disclosure if (1) the information contains highly intimate or embarrassing facts the release of which would be highly objectionable to a reasonable person and (2) the information is not of legitimate concern to the public, 540 S.W.2d at 685. In *United States Department of Justice v. Reporters Committee For Freedom of the Press*, 489 U.S. 749 (1989), the U.S. Supreme Court concluded that where an individual's criminal history record information is compiled or summarized by a governmental entity, the information takes on a character that implicates an individual's right of privacy in a manner that the same individual records in an uncompiled status do not. In this instance, the requestor asks for unspecified records compiled on certain individuals. Accordingly, we find that each named individual's right to

privacy is implicated by this request. Thus, all of the requested information- except service number 00-60654- is protected from disclosure under section 552.101 of the Government Code, and as this issue is dispositive, we therefore do not address your section 552.108(a)(2) claims.

Concerning service number 00-60654, the requested information is not excepted from disclosure under section 552.101, as it does not implicate the named individuals' privacy interests. The Department has not asserted any other exceptions for withholding this information. However, we note that this incident report contains information that is excepted under section 552.130 of the Government Code. Section 552.130 provides in relevant part:

> (a) Information is excepted from the requirement of Section 552.021 if the information relates to:
>
> > (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]
> >
> > (2) a motor vehicle title or registration issued by an agency of this state[.]

You must withhold the Texas driver's license number contained in the responsive materials under section 552.130. We have marked this information for redaction prior to the release of service number 00-60654.

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

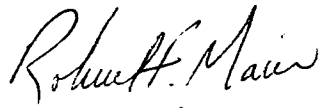
records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these 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 Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



Robert F. Maier
Assistant Attorney General
Open Records Division

RFM/seg

Ref: ID# 181666

Enc. Submitted documents

c: Ms. Paula J. Gaus
Attorney at Law
P.O. Box 141461
Irving, Texas 75014
(w/o enclosures)