



**ATTORNEY GENERAL OF TEXAS**  
**GREG ABBOTT**

September 11, 2003

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

OR2003-6391

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# 187485.

The Richardson Police Department (the "department") received a written request for all records pertaining to two named individuals, including the requestor, at a particular address. You indicate that some of the responsive information has been made available to the requestor. You contend, however, that certain other information coming within the scope of the request is excepted from required disclosure pursuant to sections 552.101, 552.108, and 552.130 of the Government Code.

We note at the outset that portions of Incident Report No. 03-014741 pertain to an investigation of alleged child abuse. 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.

Fam. Code § 261.201. To the extent that the information contained in Incident Report No. 03-014741 pertains to an investigation of alleged child abuse, that information is made confidential in its entirety pursuant to section 261.201 of the Family Code. You have not informed this office of any rules the department has adopted that would permit access to this information. Consequently, the department must withhold the information that we have marked pursuant to section 552.101 of the Government Code.

On the other hand, the remaining submitted information was not “used or developed in an investigation under” chapter 261 of the Family Code. Consequently, none of the remaining submitted information is made confidential under section 261.201 of the Family Code. We therefore must address the applicability of the other exceptions you raised.

You contend that the remaining submitted information is excepted from required public disclosure pursuant to section 552.108(a)(2) of the Government Code, which excepts from required public disclosure “[i]nformation held by a law enforcement agency . . . that deals with the detection, investigation, or prosecution of crime . . . if . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication.” Based on your representation that these investigations have concluded in a result other than a criminal conviction or deferred adjudication, we conclude that the department may withhold most of the remaining submitted information pursuant to section 552.108(a)(2) of the Government Code.

Section 552.108 does not, however, except from required public disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). The department therefore must release these types of information, including a detailed description of the alleged offense, in accordance with *Houston Chronicle Publishing Company v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), writ *ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); *see also* Open Records Decision No. 127 (1976).

In summary, the department must withhold the information we have marked as being confidential under section 261.201 of the Family Code. The department may withhold most of the remaining submitted information pursuant to section 552.108(a)(2), but must release all basic information from both of the submitted incident reports.

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,



Kristen Bates  
Assistant Attorney General  
Open Records Division

KAB/RWP/seg

Ref: ID# 187485

Enc: Submitted documents and tape recording