



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 27, 2005

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

OR2005-08747

Dear Ms. Obinegbo:

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# 233070.

The Richardson Police Department (the "department") received a request for two specified offense reports. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," and encompasses information made confidential by other statutes. Section 58.007(c) of the Family Code provides in pertinent part 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 Subchapter B.

Fam. Code § 58.007(c). Report 05-049981 pertains to a runaway, conduct which is within the scope of section 58.007. *See* Fam. Code § 51.03(a)(3) (defining “conduct indicating a need for supervision” to include “the voluntary absence of a child from his home without the consent of his parent or guardian for a substantial length of time or without intent to return”). Furthermore, report 05-049981 involves juvenile conduct that occurred after September 1, 1997. It does not appear that any of the exceptions in section 58.007 apply. Thus, we agree that the submitted information in report 05-049981 is confidential pursuant to section 58.007(c) of the Family Code and must be withheld in its entirety under section 552.101.

Section 552.101 also encompasses section 261.201(a) of the Family Code. Section 261.201 provides as follows:

(a) 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 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(a). Upon review of report 05-052239, we conclude that it consists of a file, report, record, communication, or working paper used or developed in an investigation under chapter 261. *See* Fam. Code §§ 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code). Therefore, report 05-052239 is confidential under section 261.201 of the Family Code, and the department must withhold it under section 552.101 on that basis.

In summary, the department must withhold report 05-049981 under section 552.101 in conjunction with section 58.007 of the Family Code, and report 05-052239 in conjunction with section 261.201 of the Family Code.¹

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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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).

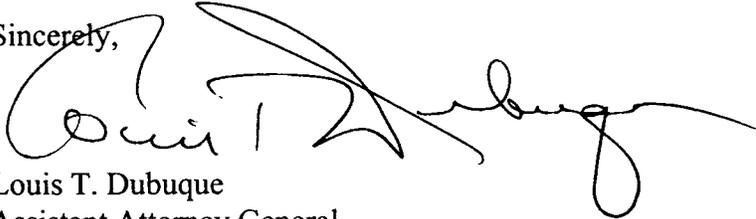
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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 Office of the Attorney General at (512) 475-2497.

¹As our ruling on this issue is dispositive, we need not address your remaining arguments against disclosure.

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,

A handwritten signature in black ink, appearing to read "Louis T. Dubuque", with a long, sweeping flourish extending to the right.

Louis T. Dubuque
Assistant Attorney General
Open Records Division

LTD/jpa

Ref: ID#233070

Enc. Submitted documents

c: Ms Fadwa Rifai
112 S. Bowser #12A
Richardson, Texas 75081
(w/o enclosures)