



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 27, 2005

Ms. Patricia E. Carls  
Brown & Carls, LLP.  
106 East Sixth Street, Suite 550  
Austin, Texas 78701

OR2005-09757

Dear Ms. Carls:

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# 235288.

The Georgetown Police Department (the "department"), which you represent, received a request for records of calls for service and incident reports relating to a series of street addresses during a specified time interval. You inform us that the department has released some of the requested information. You claim that the rest of the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the information you submitted.

Initially, we must address the department's obligations under section 552.301 of the Government Code. This section prescribes procedures that must be followed in asking this office to decide whether requested information is excepted from public disclosure. Section 552.301(b) requires the governmental body to ask for the attorney general's decision and state the exceptions to disclosure that it claims not later than the tenth business day after the date of its receipt of the written request for information. *See* Gov't Code § 552.301(b). Section 552.302 provides that if a governmental body does not request an attorney general decision as prescribed by section 552.301, the requested information is presumed to be subject to required public disclosure and must be released, unless there is a compelling reason to withhold the information. *See id.* § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ).

In this instance, the department did not request a decision within the ten-business-day period prescribed by section 552.301(b).<sup>1</sup> Therefore, the submitted information is presumed to be public and must be released, unless there is a compelling reason to withhold any of the information. The statutory presumption under section 552.302 can generally be overcome when the information is confidential by law or third-party interests are at stake. *See Open Records Decision Nos. 630 at 3 (1994), 325 at 2 (1982)*. Because the applicability of section 552.101 of the Government Code can provide a compelling reason for non-disclosure, we will address your claim under this exception.

Section 552.101 excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This exception encompasses information that another statute makes confidential. You raise section 552.101 in conjunction with section 261.201 of the Family Code. Section 261.201(a) 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 [the Family 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 [chapter 261 of the Family Code] and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, and working papers used or developed in an investigation under [chapter 261 of the Family Code] or in providing services as a result of an investigation.

Fam. Code § 261.201(a). We find that the submitted information consists of files, reports, records, communications, or working papers used or developed in investigations under chapter 261 of the Family Code. Thus, the information falls within the scope of section 261.201(a). You inform us that the City of Georgetown has not adopted any rules or regulations that govern the release of this type of information. We therefore conclude that the department must withhold the submitted information under section 552.101 of the

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<sup>1</sup>You inform us that the department received this request for information on August 4, 2005. Accordingly, the department’s deadline under section 552.301(b) to request this decision was August 18. Your request for this decision was postmarked August 23. You explain that the requestor was notified that additional time would be required to respond to this request. You state that the requestor “agreed to extend the deadline.” We note, however, that the deadlines contained in section 552.301 of the Government Code are fixed by statute and cannot be altered by agreement. *See Open Records Decision Nos. 541 at 3 (1990), 514 at 1-2 (1988), Attorney General Opinion JM-672 (1987)*.

Government Code in conjunction with section 261.201 of the Family Code as information made confidential by law. *See* Open Records Decision No. 440 at 2 (1986) (addressing predecessor statute).

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).

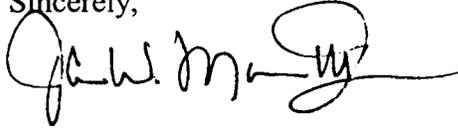
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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.

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 "J.W. Morris, III". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/sdk

Ref: ID# 235288

Enc: Submitted documents

c: Ms. Naomi C. Walker  
Executive Director  
Georgetown Housing Authority  
P.O. Box 60  
Georgetown, Texas 78627  
(w/o enclosures)