



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 18, 2008

Mr. Ronald D. Gilbert  
Chief of Police  
Onalaska Police Department  
P.O. Box 880  
Onalaska, Texas 77360

OR2008-09803

Dear Mr. Gilbert:

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# 317894.

The Onalaska Police Department (the "department") received a request from the attorney for the board of trustees of the Onalaska Independent School District (the "district") for a copy of the complaint, arrest warrant, and all other documents related to a particular case. You state that you will produce the warrant and charging complaint as well as the basic "front page" information. 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 of the Government Code excepts from public 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 other statutes make 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). You state that the submitted information was developed and used in an investigation by the department of an alleged failure to report alleged or suspected child abuse. *See id.* §§ 261.109(a) (person commits offense if person has cause to believe that child's physical or mental health or welfare has been or may be adversely affected by abuse and knowingly fails to report); *see also id.* §§ 261.001(1) (defining "abuse" for the purposes of chapter 261 of the Family Code); 101.003(a) (defining "child" for purposes of this section as person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes). Upon review, we conclude that the investigation at issue was conducted pursuant to chapter 261 of the Family Code. Accordingly, we agree that the submitted information is within the scope of section 261.201 of the Family Code, and the department must withhold the submitted information in its entirety under section 552.101 of the Government Code as information made confidential by law. Furthermore, because section 261.201(a) protects a report of alleged or suspected abuse or neglect, we note that the department must not release front page offense report information in cases of alleged child abuse. As our ruling is dispositive, we need not address your remaining argument against 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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3). If the governmental body does not file suit over 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

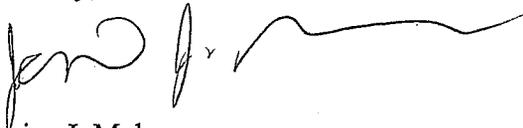
will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to 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 challenge 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,



Jessica J. Maloney  
Assistant Attorney General  
Open Records Division

JJM/jh

Ref: ID# 317894

Enc. Submitted documents

c: Ms. Judy Brown  
Walsh, Anderson, Brown, Schulze & Aldridge, P.C.  
P.O. Box 2156  
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(w/o enclosures)