Office of the Attorney General · State of Texas
John Cornyn

November 6, 2001

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

OR2001-5114

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# 154500.

The Richardson Police Department (the "department") received a request for a specified incident report. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

You assert that the responsive information is excepted from disclosure under section 552.108(b) of the Government Code, but have quoted the language of 552.108(a)(2) which provides an exception for records that relate to the detection, investigation or prosecution of crime in relation to an investigation that did not result in conviction or deferred adjudication. We therefore interpret your request for a ruling to relate to information excepted under section 552.108(a)(2) of the Government Code.

Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication.

You explain that the "information in this investigative file deals with an investigation that has not, as of the date of the request, resulted in a conviction or deferred adjudication." You further state that "the documents sought by this request constitute an internal record or notations of the Richardson Police Department, a law enforcement agency, only in relation

to an investigation that did not result in conviction or deferred adjudication." Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a *final result* other than conviction or deferred adjudication. Because you state that the investigation "has not, as of the date of the request, resulted in a conviction or deferred adjudication," the investigation has not concluded in a *final result* other than conviction or deferred adjudication. Thus you have failed to show the applicability of section 552.108(a)(2) of the Government Code to the submitted incident report. Therefore, we conclude that you may not withhold the incident report under section 552.108(a)(2).

We note, however, that the responsive information contains a driver's license number that is excepted under section 552.130 of the Government Code. Section 552.130(a) of the Government Code excepts from disclosure information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state or a motor vehicle title or registration issued by an agency of this state. Therefore, you must withhold the driver's license number in the responsive information under section 552.130(a) of the Government Code. The department must release the remaining information.

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).

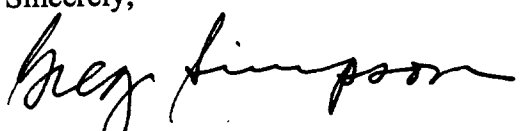
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following 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 Department of Public 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 General Services 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. 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,



Gregory T. Simpson
Assistant Attorney General
Open Records Division

GTS/sdk

Ref: ID# 154500

Enc. Submitted documents

c: Mr. Harold D. Jones
Dodge, Fazio, Anderson, & Jones, P.C.
One Lincoln Center
5400 LBJ Freeway, Suite 800
Dallas, Texas 75240
(w/o enclosures)