



September 12, 2002

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

OR2002-5116

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# 168496.

The Richardson Police Department (the “department”) received a request for calls for service relating to domestic violence made from two specified addresses between January 1994 and December 2001. You indicate that you have released some of the requested information to the requestor. You claim, however, that other portions of the requested information are 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.

Initially, we note that some of the submitted incident reports do not concern domestic violence, and thus are not responsive to the request for information. Accordingly, this ruling does not address the required public disclosure of the following incident reports, which you claim are excepted from disclosure under section 552.108: 95-27036, 96-111134, 97-003372, 97-003768, 97-06264, and 98-026608. We note that incident reports 01-03303 and 01-043611 are similarly not responsive to the request for information.

We turn now to your arguments under section 552.101. Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Section 261.201 of the Family Code reads in part 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.

We believe that incident reports 96-0105421 and 00-028043 consist of reports, records, and working papers used or developed in an investigation made under chapter 261 of the Family Code. Because you have not cited any specific rule that the investigating agency has adopted with regard to the release of this type of information, we assume that no such regulation exists. Given that assumption, incident report numbers 96-0105421 and 00-028043 are confidential pursuant to section 261.201 of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (construing predecessor statute). Accordingly, you must not release these incident reports to the requestor.¹

You next argue that the remainder of the responsive information is excepted under section 552.108. Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. You state that the following incident report numbers pertain to cases that did not result in conviction or deferred adjudication: 95-0028113, 95-030250, 96-100113, 96-102631, 96-103158, 96-103389, 96-105129, 97-003487, and 01-059981.² Accordingly, we conclude that you may withhold these incident reports under section 552.108(a)(2).

We note, however, that information normally found on the front page of an offense report is generally considered public. *See generally* Gov't Code § 552.108(c); *Houston Chronicle Publ'g Co. 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); Open Records Decision No. 127

¹We note that if the investigation has been referred to the Department of Protective and Regulatory Services ("DPRS"), the requestor, who is a parent, may be entitled to access DPRS's records. Section 261.201(g) of the Family Code provides that DPRS, upon request and subject to its own rules:

shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect information concerning the reported abuse or neglect that would otherwise be confidential under this section if the department has edited the information to protect the confidentiality of the identity of the person who made the report and any other person whose life or safety may be endangered by the disclosure.

Fam. Code § 261.201(g).

²We understand that report number 96-103159 encompasses report number 94537.

(1976). Thus, you must release the types of information that are considered to be front page offense report information, even if this information is not actually located on the front page of the offense report. Although section 552.108(a)(2) authorizes you to withhold from disclosure incident reports 95-0028113, 95-030250, 95-28113, 96-100113, 96-102631, 96-103158, 96-103389, 96-105129, 97-003487, and 01-059981, you may choose to release all or part of the information at issue that is not otherwise confidential by law. *See* Gov't Code § 552.007.

In summary, the department must withhold from disclosure incident report numbers 96-0105421 and 00-028043 under section 552.101 in conjunction with section 261.201 of the Family Code. With the exception of basic information, the department may withhold from disclosure incident report numbers 95-0028113, 95-030250, 96-100113, 96-102631, 96-103158, 96-103389, 96-105129, 97-003487, and 01-059981 based on section 552.108(a)(2). The department must release the remainder of the responsive information to the requestor as discussed above.

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 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,



V.G. Schimmel
Assistant Attorney General
Open Records Division

VGS/sdk

Ref: ID# 168496

Enc: Submitted documents

c: Ms. Laura Kingsbury-Riney
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(w/o enclosures)