



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 11, 2011

Mr. Whitt L. Wyatt  
Assistant City Attorney  
City of Richardson  
P.O. Box 831078  
Richardson, Texas 75083-1078

OR2011-05006

Dear Mr. Wyatt:

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# 414138 (Richardson PD Ref.# 11-059).

The Richardson Police Department (the "department") received a request for four specified police reports and any police calls to the requestor's rental property from September 2010 to the date of the request. We understand you have released some information to the requestor with a Texas driver's license number redacted under section 552.130 of the Government Code pursuant to Open Records Decision No. 684 (2009).<sup>1</sup> You claim that the remaining information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note you have not submitted one of the reports specified in the request, report number 10-119337. To the extent this report existed and was maintained by the department on the date the department received the request for information, we presume the department has released it. If not, the department must do so at this time. *See Gov't Code §§ 552.301, .302; Open Records Decision No. 664 (2000)* (if governmental body concludes that no exceptions apply to the requested information, it must release the information as soon as possible).

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<sup>1</sup>Open Records Decision No. 684 is a previous determination issued by this office to all governmental bodies authorizing them to withhold ten categories of information, including a Texas driver's license number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information made confidential by other statutes, such as section 261.201(a) of the Family Code, which provides as follows:

(a) [T]he 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). You claim the submitted information is confidential in its entirety under section 261.201. Upon review, we find report number 10-118102, which we have marked, consists of files, reports, records, communications, audiotapes, videotapes, or working papers used or developed in an investigation under chapter 261 of the Family Code. *See id.* § 261.001 (defining "abuse" and "neglect" for purposes of Fam. Code ch. 261); *see also id.* § 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). Thus, this information is within the scope of section 261.201(a). You do not indicate the department has adopted a rule governing the release of this type of information; therefore, we assume no such regulation exists. Given that assumption, we find this information is confidential pursuant to section 261.201 of the Family Code, and the department must withhold the marked information under section 552.101 of the Government Code.<sup>2</sup> However, we note the remaining information relates to investigations of possible narcotic activity. You have failed to explain how this information was used or developed in an investigation of alleged or suspected child abuse or neglect. Accordingly, the department may not withhold any of the remaining information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

You seek to withhold the remaining information under section 552.108(a)(2) of the Government Code, which excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred

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<sup>2</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

adjudication[.]” Gov’t Code § 552.108(a)(2). You state the remaining reports pertain to investigations of crimes that did not result in convictions or deferred adjudications. Based on your representation and our review of the information at issue, we conclude section 552.108(a)(2) of the Government Code is applicable to the remaining reports.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing Company 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). *See* Open Records Decision No. 127 (1976) (summarizing types of information made public by *Houston Chronicle*). Thus, with the exception of basic information, the department may withhold the remaining reports under section 552.108(a)(2) of the Government Code.<sup>3</sup>

In summary, the department must withhold report number 10-118102 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. With the exception of basic information, the department may withhold the remaining reports under section 552.108(a)(2) of the Government Code.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Kate Hartfield  
Assistant Attorney General  
Open Records Division

KH/em

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<sup>3</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information, except to note that basic information described in *Houston Chronicle* does not include information subject to section 552.130 of the Government Code.

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Enc. Submitted documents

c: Requestor  
(w/o enclosures)