



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 22, 1998

Ms. Ann Diamond
Chief of Litigation - Civil
Assistant District Attorney
Tarrant County
401 W. Belknap
Fort Worth, Texas 76196-0201

OR98-3221

Dear Ms. Diamond:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 120720.

The Tarrant County District Attorney's Office received six requests for a copy of the videotape of an incident that occurred on a Fort Worth Independent School District bus on September 15, 1998. You ask whether the videotape is excepted from disclosure under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.¹

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 552.101 encompasses confidentiality provisions such as Family Code section 58.007. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. The relevant language of section 58.007(c) reads as follows:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child may not be disclosed to the public and shall be:

(1) kept separate from adult files and records; and

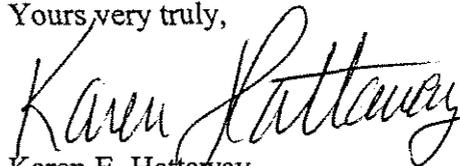
¹You also note that Fort Worth Independent School District contends that the videotape is excepted from disclosure pursuant to several provisions of the Open Records Act.

(2) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

The videotape at issue involves juvenile conduct that occurred after September 1, 1997. You indicate that the videotape is a part of your juvenile prosecution files. You state that you expect that "legal actions will be taken in juvenile court" and that "the proceedings will occur under Title 3 of the Family Code, also known as the Juvenile Justice Code." Based upon these representations, we find that the videotape is a juvenile law enforcement record subject to section 58.007(c) of the Family Code. Section 58.007(c) deems the videotape confidential, and section 58.007 does not provide for its release to the requestors. Accordingly, you must withhold the videotape from disclosure under section 552.101 of the Government Code.²

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref: ID# 120720

Enclosures: Submitted videotape

cc: Mr. William Allen Manning
KTVT-Channel 11
5233 Bridge Street
Fort Worth, Texas 76103
(w/o enclosures)

²We note that section 552.007 of the Government Code, which prohibits the selective disclosure of information made public by the Open Records Act, does not apply to information that is confidential by statute. See Gov't Code § 552.007; Open Records Decision No. 400 at 2 (1983).

Ms. Kathy Sanders, Reporter
Fort Worth Star Telegram
P.O. Box 1870
Fort Worth, Texas 76102
(w/o enclosures)

Ms. Ann Priesman, Assistant Producer
Dateline NBC
309 Rockefeller Plaza, Room 412E-1
New York, New York 10112
(w/o enclosures)

Ms. Linda Frederick
NBC 5
3900 Barnett Street
Fort Worth, Texas 76103
(w/o enclosures)

Mr. Richard Klein
The Dallas Morning News
Communications Center
P.O. Box 655237
Dallas, Texas 75265
(w/o enclosures)

Ms. Barbara Griffith
Bureau Chief, Fort Worth
WFAA
1200 Summit Avenue, Suite 102
Fort Worth, Texas 76102
(w/o enclosures)