



January 5, 2000

Mr. Steven Monté
Assistant City Attorney
Criminal Law and Police Department
City of Dallas
501 Police & Courts Building
Dallas, Texas 75201

OR2000-0020

Dear Mr. Monté:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 131986.

The City of Dallas received a request for information related to a murder case. You seek to withhold the information responsive to the request under former section 51.14 of the Family Code.¹

Section 552.101 of the Government Code requires withholding, *inter alia*, information made confidential by statute. Section 51.14 of the Family Code, regarding the confidentiality of juvenile law enforcement records, was repealed in 1995.² However, it still applies to the information at issue here, since the juvenile conduct which is the subject of the requested records occurred in December 1994. *See* Acts 1997, 75th Leg., ch. 1086, § 53(b) (conduct

¹The city did not submit its request for the decision of this office within ten business days of receiving the request for information as required by section 552.301. However, since you contend that the information at issue is confidential by law, we will consider your claims. *See* Gov't Code § 552.302 (if governmental body fails to comply with requirements of section 552.301, requested information must be released unless there is a compelling reason for withholding).

²Acts 1995, 74th Leg., ch. 262., §100(a), eff. Jan. 1, 1996.

occurring before 1997 effective date of bill's amendments to Family Code is covered by law in effect at time of conduct). Subsection (d) of section 51.14 provided in part:

Except as provided by Article 15.27, Code of Criminal Procedure, and except for files and records relating to a charge for which a child is transferred under section 54.02 of this code to a criminal court for prosecution, the law-enforcement files and records are not open to public inspection nor may their contents be disclosed to the public[.]

At the time of the conduct here, section 54.02 provided for the transfer of juvenile cases to criminal court where felony conduct was alleged to have been committed by a juvenile the age of the juvenile actor here. If the case to which the information requested here relates was transferred to criminal court under section 54.02, the requested information is not subject to the confidentiality provision of section 51.14(d), and must be released. If the case was not so transferred, you may withhold the requested information under former section 51.14(d) of the Family Code.

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).

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.

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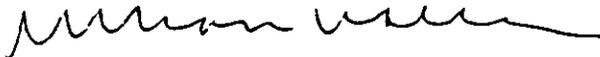
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Sincerely,

A handwritten signature in black ink, appearing to read "William Walker". The signature is fluid and cursive, with a long horizontal stroke at the end.

William Walker
Assistant Attorney General
Open Records Division

WMW/ch

Ref: ID# 131986

Encl. Submitted documents

cc: Mr. Randy Schaffer
Schaffer & Henley
1301 McKinney, Suite 3100
Houston, Texas 77010
(w/o enclosures)