



February 25, 2000

Lieutenant Arturo Valdez  
City of McAllen Police Department  
1501 Pecan Boulevard  
McAllen, Texas 78501

OR2000-0712

Dear Lieutenant Valdez:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 133708.

The City of McAllen received a request for a police report on burglaries. You seek to withhold the information responsive to the request under section 552.108 of the Government Code.

Section 552.301(e)(1)(B) of the Government Code requires that a governmental body seeking an attorney general decision as to whether it may withhold information submit to this a copy of the written request for information no later than the 15<sup>th</sup> business day after it received the request. Section 552.302 provides that if a governmental body fails to timely submit the materials required by section 552.301, the requested information must be released unless there is a compelling reason to withhold the information.

You advise that the request was received by the city on January 21, 2000. To date, you have not submitted to this office a copy of the request as required by section 52.301(e)(1)(B). Accordingly, you must release the requested information unless there is a compelling reason for withholding it. A compelling reason would be that the information is confidential by law or implicates third party rights. *See, e.g.*, Open Records Decision No. 150 (1977). Generally, section 552.108 does not provide a compelling reason for purposes of section 552.302. *See e.g.* Open Records Decision Nos. 473 (1987). Accordingly, none of the information at issue may be withheld under section 552.108.

However, it appears that the information you submitted as responsive to the request is subject to section 552.101 of the Government Code in conjunction with section 58.007 of the Family

Code. Section 552.101 requires withholding, *inter alia*, information made confidential by law. Section 58.007(c) of the Family Code provides in pertinent part:

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

The submitted information involves a juvenile suspect and is therefore made confidential by section 58.007(c). None of the exceptions to confidentiality set out in chapter 58 appear to apply here. Accordingly, the submitted report must be withheld in its entirety.

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).

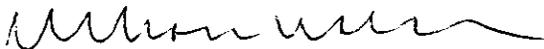
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following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

Sincerely



William Walker  
Assistant Attorney General  
Open Records Division

WMW/ljp

Ref: ID# 133708

Encl. Submitted documents

cc: Ms. Marie Carolyn Limquiaco  
c/o Lieutenant Arturo Valdez  
(w/o enclosures)