



March 22, 2000

Mr. Steven D. Monté
Assistant City Attorney
City of Dallas
2014 Main Street, Room 206
Dallas, Texas 75201

OR2000-1117

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# 134741.

The City of Dallas (the "city") received a request for the investigation of a named city employee for child abuse. You claim that the information responsive to the request is excepted from disclosure under sections 552.101 and 552.117 of the Government Code.

Section 552.101 requires withholding, *inter alia*, information made confidential by statute. Section 552.101 of the Government Code excepts information from required public disclosure when the information is confidential by law. Subsection (a) of section 261.201 of the Family Code provides:

(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 . . . [the Family] 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 . . . chapter [261 of the Family Code] 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 . . . chapter [261 of the Family Code] or in providing services as a result of an investigation.

You claim the protection of section 261.201 for a police report you submitted as responsive to the request. We agree that this information is subject to section 261.201. Thus, the police report may be disclosed only for purposes consistent with the Family Code and applicable federal or state law or under rules adopted by the city police department, which is the agency that investigated the allegation. Since you have not informed this office that the city police department has adopted any rules providing for release of this information, we conclude that the police report is confidential and must be withheld.

Sections 552.024 and 552.117(1) of the Government Code provide that a public employee or official can opt to keep private his or her home address, home telephone number, social security number, or information that reveals that the individual has family members. Such information must be withheld if, as of the time of the request for the information, the employee had elected to keep the information private. Open Records Decision Nos. 530 at 5 (1989), 482 at 4 (1987), 455 (1987). Section 552.117(2) provides that information is excepted from disclosure if it relates to a peace officer's home address, home telephone number, social security number, or reveals whether the peace officer has family members, regardless of whether the officer has elected under section 552.024 to withhold such information. See Open Records Decision No. 622 (1994).

You contend that the internal investigation materials you submitted as responsive to the request are subject to section 552.117. We have marked those portions of the submitted information which we believe are subject to section 552.117 and must be withheld if the subject employee has elected to withhold the information under section 552.024 or if the subject employee is a peace officer. You must release the portions of the submitted internal investigation materials we have not so marked.

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).

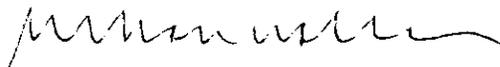
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the

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# 134741

Encl. Submitted documents

cc: Ms. Tawanna Williams
23 E. Creek Dr.
Grand Prairie, Texas 75052
(w/o enclosures)