



March 28, 2000

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

OR2000-1199

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# 135130.

The Dallas Police Department (the "department") received a request for the summary pages of cases investigated by a particular officer. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.117 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 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 Texas 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) states:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

- (1) if maintained on paper or microfilm, kept separate from adult files and records;
- (2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and
- (3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

As you indicate, two of the requested reports at issue involve juvenile delinquent conduct that occurred after September 1, 1997. It does not appear that any of the exceptions in section 58.007(b) apply; therefore, the requested information is confidential pursuant to section 58.007(c) of the Family Code. The department must withhold these report from disclosure under section 552.101 of the Government Code.

You next contend that the remaining information is protected from disclosure by section 552.117 of the Government Code. Section 552.117(2) excepts from disclosure information that relates to the home addresses, home telephone numbers, and social security numbers of peace officers. Section 552.117(2) also excepts information that reveals whether an officer has family members. We believe, however, that section 552.117 applies to protect employee information when the individual is acting as an employee. In this case, the materials involve the subjects of criminal allegations and relate to criminal investigations. We do not believe that section 552.117 applies in this instance. The department may not withhold the remaining reports under section 552.117.

Report number 99-114, however, contains information that implicates the privacy interests of a third party. The doctrine of common law privacy protects information that contains highly intimate or embarrassing facts about a person's private affairs such that its release would be highly objectionable to a reasonable person and the information is of no legitimate concern to the public. *Industrial Found. of the South v. Texas Indus. Acc. Bd.*, 540 S.W.2d 668 (Tex. 1976). The type of information considered intimate and embarrassing by the supreme court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. Any information tending to identify sexual assault victims should be withheld pursuant to common law privacy. *See* Open Records Decision No. 393 (1983). We have marked the information in the report that must be redacted before release of the report.

In summary, you must withhold the reports involving juvenile delinquent conduct and information tending to identify sexual assault victims, but must release the remaining information.

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,



Don Ballard  
Assistant Attorney General  
Deputy Chief, Open Records Division

JDB/CHS/ljp

Ref: ID# 135130

Encl. Submitted documents

cc: Mr. Fred Strong  
1122 Glen Park  
Dallas, Texas 75241  
(w/o enclosures)