



November 6, 2000

Mr. Sim W. Goodall  
Police Legal Advisor  
City of Arlington  
101 West Abram Street  
Box 231  
Arlington, Texas 76004-0231

OR2000-4333

Dear Mr. Goodall:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 141084.

The Arlington Police Department (the "department") received a written request for a particular offense report. You contend that the offense report is made confidential under section 58.007 of the Family Code and thus must be withheld from the public pursuant to section 552.101 of the Government Code.<sup>1</sup>

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 58.007 of the Family Code makes confidential "law enforcement records and files concerning a child." The offense report you seek to withhold concerns the offenses of making alcohol available to minors and harboring runaways. Because these offenses were allegedly committed by an adult, we conclude that the requested offense report is not made confidential under section 58.007.

We believe, however, that some of the information contained the offense report is protected from public disclosure pursuant to common law privacy. Section 552.101 of the Government Code also protects information coming within the common law right to privacy.

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<sup>1</sup>You also contend that a second offense report is excepted from required public disclosure. Because this second offense report does not come within the ambit of the records request, we decline to address the public nature of that report at this time.

*Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Common law privacy protects information if it is highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, *and* it is of no legitimate concern to the public. *Id.* at 683-85. In this instance, we believe that the identities of those juveniles must be withheld to protect the juveniles' privacy interests. *Id.*; *cf.* Fam. Code § 58.007. However, because you have raised no other applicable exception, the department must release the remaining information in the requested offense report to the requestor.

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).

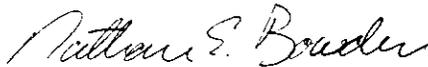
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or

complaints about over-charging must be directed to the General Services Commission at 512/475-2497.

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,



Nathan E. Bowden  
Assistant Attorney General  
Open Records Division

NEB/RWP/seg

Ref: ID# 141084

Encl. Submitted documents

cc: Ms. Christy Gonzales  
Arlington Star-Telegram  
1111 W. Abram Street  
Arlington, Texas 76013  
(w/o enclosures)