



March 1, 2001

Mr. Charles Allen, II
City of Richardson
P.O. Box 831078
Richardson, Texas 75083-1078

OR2001-0780

Dear Mr. Allen:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 144616.

The City of Richardson (the "city") received a request for information relating to complaints made by and against a specific individual. You claim that some of the requested information is excepted from disclosure under section 552.130 of the Government Code. You also claim that TCIC information¹ and social security numbers that appear in the requested records are excepted from disclosure. We have considered the exceptions you claim and reviewed the submitted information.²

We note, initially, that some of the submitted reports are confidential under section 58.007 of the Family Code and, therefore, must be withheld under section 552.101 of the

¹We assume that you refer to information obtained from the Texas Crime Information Center.

²We note, however, that you have redacted portions of the submitted information that you wish to withhold. We cannot determine whether a claimed exception applies to information that we cannot see. Under section 552.301 of the Government Code, a governmental body is required to submit to this office a properly-labeled copy of the specific information requested, or representative samples of the information, in order for this office to determine whether the information is excepted from disclosure. In the future, please refrain from marking your samples in a manner which obliterates the information from view. Failure to comply with section 552.301 will result in the information being presumed public under section 552.302.

Government Code.³ 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) reads as follows:

(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.

Some of the records at issue involve juvenile conduct that occurred after September 1, 1997. It does not appear that any of the exceptions in section 58.007 apply; therefore, under section 552.101 of the Government Code, you must withhold the records we have marked as confidential under section 58.007(c) of the Family Code.

Next, we note that the requestor is asking, in part, for a compilation of criminal history information for a named individual. Where an individual's criminal history information has been compiled by a governmental entity, the information takes on a character that implicates the individual's right to privacy. *See United States Dept. of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989) (concluding that federal regulations that limit access to criminal history record information that states obtain from the federal government or other states recognize privacy interest in such information). Similarly, open records decisions issued by this office acknowledge this privacy interest. *See Open Records Decision Nos. 616 (1993), 565 (1990)*. In this case, we believe that the individual's privacy rights have been implicated. Therefore, all compilations of the referenced individual's criminal history must be withheld under section 552.101 of the Government Code in conjunction with *Reporters Committee*. Because you raise no exceptions that apply to the remaining information, it must be released to the requestor.

³Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes.

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 Hadassah Schloss at 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,

A handwritten signature in black ink, appearing to read "Stephen P. Agan". The signature is fluid and cursive, with a prominent initial "S" and "A".

Stephen P. Agan
Assistant Attorney General
Open Records Division

SPA/seg

Ref: ID# 144616

Encl. Submitted documents

cc: Ms. Candee Perry-Fields
709 Terryland Drive
Richardson, Texas 75080
(w/o enclosures)