OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

February 25, 2004

Mr. Steven D. Monté
Assistant City Attorney
Dallas Police Department
1400 South Lamar Street, #300A
Dallas, Texas 75215-1801

OR2004-1364

Dear Mr. Monté:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 196734.

The Dallas Police Department (the "department") received a request for a specified police report. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

We note that the submitted information is encompassed by the previous determination issued to the department in Open Records Letter No. 2004-0619 (2004). In that decision, we concluded that the department may withhold records involving a known offender who is a child as defined by section 51.02 of the Family Code and relating to delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997 without the necessity of again requesting a decision under section 552.301, except that information that is made public by a special or specific statute may not be withheld under section 58.007(c) and must be released. *See* Fam. Code §§ 51.02(2) (defining child), 51.03(a), (b) (defining delinquent conduct or conduct indicating a need for supervision), 58.007(c); *see also* Open Records Decision No. 673 at 7 (2001). You have demonstrated that the required elements of law, fact, and circumstances specified in the prior ruling are met in this instance. Therefore, the department may withhold the submitted information in

accordance with Open Records Letter No. 2004-0619 (2004).[1] *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001) (attorney general decision constitutes second type of previous determination under section 552.301(a) where (1) information at issue falls within specific, clearly delineated category of information about which attorney general has previously rendered decision; (2) previous decision is applicable to particular governmental body from which information is requested; (3) previous decision concludes that specific, clearly delineated category of information is or is not excepted from disclosure; (4) elements of law, fact, and circumstances are met to support previous decision's conclusion that information at issue is or is not excepted from required disclosure; and (5) previous decision explicitly provides that governmental body to which decision applies may withhold information without necessity of again seeking attorney general decision).

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).

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[1]As we are able to make this determination, we need not address your arguments against disclosure.

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 Dep't of Pub. 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 Texas Building and Procurement 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. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,

Cindy Nettles
Assistant Attorney General
Open Records Division

CN/jh

Ref: ID# 196734
Enc. Submitted documents

c: Ms. Yolanda Woods
1500 North Blue Grove Road #1121
Lancaster, Texas 75134
(w/o enclosures)