



May 5, 1999

Mr. Chad E. Jones
Assistant City Attorney
City of College Station
P.O. Box 9960
College Station, Texas 77842

OR99-1226

Dear Mr. Jones:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 123855.

The City of College Station (the “city”) received a request for information relating to a specific criminal incident. 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 have reviewed the submitted information.

The city states, and we agree, that it has not sought an open records decision from this office within the statutory ten-day deadline. *See* Gov’t Code § 552.301. The city’s delay in this matter results in the presumption that the requested information is public. *See id.* § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ). In order to overcome the presumption that the requested information is public, a governmental body must provide compelling reasons why the information should not be disclosed. *Hancock*, 797 S.W.2d at 381. A demonstration that the requested information is deemed confidential by law is sufficient to negate this presumption. *See* Open Records Decision No. 150 (1977).

Section 552.101 of the Government Code 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 section 58.007 of the Family Code. 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:

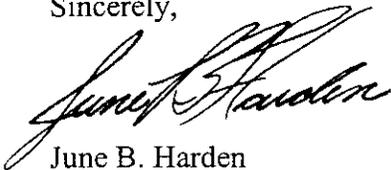
(c) Except as provided by Subsection (d), law enforcement records and files concerning a child may not be disclosed to the public and shall be:

- (1) kept separate from adult files and records; and
- (2) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

The submitted records are law enforcement records concerning juvenile conduct that occurred after September 1, 1997. Thus, the requested information is confidential pursuant to section 58.007(c) of the Family Code. Accordingly, the city must withhold the requested information from disclosure in its entirety under section 552.101 of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



June B. Harden
Assistant Attorney General
Open Records Division

JBH\ch

Ref: ID# 123855

encl. Submitted documents

cc: Mr. Pu Wang
1505 Park Place, Apartment 37
College Station, Texas 77840
(w/o enclosures)