



November 8, 1999

Ms. Tenley A. Aldredge
Assistant County Attorney
County of Travis
P.O. Box 1748
Austin, Texas 78767

OR99-3141

Dear Ms. Aldredge:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 129291.

The Travis County Sheriff's Office (the "sheriff's office") received an open records request for the complete report on a particular case number. You acknowledge that more than ten business days have elapsed between the date the sheriff's office received the records request and the date of your request to this office for a decision in this matter. *See* Gov't Code § 552.301(a).

Section 552.301(a) of the Government Code requires a governmental body to release requested information or to request a decision from the attorney general within ten business days of receiving a request for information the governmental body wishes to withhold. When a governmental body fails to request a decision within ten business days of receiving a request for information, the information at issue is presumed public. Gov't Code § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ); *City of Houston v. Houston Chronicle Publ'g Co.*, 673 S.W.2d 316, 323 (Tex. App.--Houston [1st Dist.] 1984, no writ); Open Records Decision No. 319 (1982). The governmental body must show a compelling interest to withhold the information to overcome this presumption. *See Hancock*, 797 S.W.2d at 381.

The fact that information is made confidential by law found outside the Public Information Act constitutes a compelling demonstration that the information should be withheld from the public. *See* Open Records Decision No. 150 (1977). 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." Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section

58.007 of the Family Code. The relevant language of section 58.007(c), as amended by the Seventy-sixth Legislature,¹ 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.

The requested records pertain to an instance of delinquent conduct that occurred on or after September 1, 1997, and as such the records at issue must be withheld in their entirety pursuant to section 58.007(c) of the Family 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,



Carla Gay Dickson
Assistant Attorney General
Open Records Division

CGD/RWP/nc

¹Act of May 26, 1999, 76th Leg., R.S., ch. 815, §1, 1999 Tex. Sess. Law Serv. 3448 (Vernon) (to be codified as an amendment to Fam. Code § 58.007).

Ref: ID# 129291

Encl. Submitted documents

cc: Mr. John L. King
Claim Specialist
State Farm Insurance
3508 South Lamar Boulevard
Austin, Texas 78704-7934
(w/o enclosures)