



November 29, 1999

Ms. Kimberley Mickelson  
Olson & Olson  
Three Allen Center, Suite 3485  
333 Clay Street  
Houston, Texas 77002

OR99-3396

Dear Ms. Mickelson:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 130275.

The City of Friendswood (the "city"), which you represent, received two requests from the same requestor, asking for all information concerning two specific dog-bite incidents. You state that the city has released most of the requested information but has withheld the identities of the dog-bite victims. You claim that the withheld information is confidential under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. We have considered the exception you claim and reviewed the submitted information.<sup>1</sup>

Section 552.301 of the Government Code dictates the procedure that a governmental body must follow if it wishes to ask the attorney general for a decision determining whether requested information falls within an exception to disclosure. Among other requirements, the governmental body "must ask for the attorney general's decision and state the exceptions that apply within a reasonable time but not later than the 10<sup>th</sup> business day after the date of receiving the written request." Act of May 25, 1999, 76th Leg., R.S., ch 1319, § 20, 1999 Tex. Sess. Law Serv. 4500, 4508-4509 (Vernon) (to be codified as an amendment to TEX. GOV'T CODE § 552.301(b)). Otherwise, the requested information "is presumed to be subject to required public disclosure and must be released unless there is a compelling reason to withhold the information." Act of May 25, 1999, 76th Leg., R.S., ch 1319, § 21, 1999 Tex. Sess. Law Serv. 4500, 4509-4510 (Vernon) (to be codified as an amendment to TEX. GOV'T CODE § 552.302).

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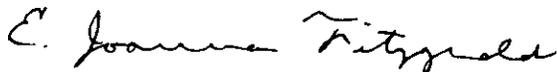
<sup>1</sup>The responsive records consist of two reports issued by the Friendswood Humane Department.

You state that the city received the first request for information on May 26, 1999. The city's deadline for asking the attorney general for a decision expired ten business days later on June 10, 1999. However, this office did not receive your letter asking for an opinion until October 8, 1999. You also state that the city received the second request on September 24, 1999. The city's deadline for asking the attorney general for a decision in regard to this request expired ten business days later on October 8, 1999. However, this office did not receive your letter asking for an opinion in regard to this second request until October 14, 1999. Therefore, the city failed to follow the required procedure proscribed by section 552.301 in regard to both requests for information. Consequently, the requested information is presumed subject to release unless there is a compelling reason to withhold the information. A compelling reason exists if the information is confidential under another source of law. Because you contend that the information is confidential under section 552.101 in conjunction with section 58.007 of the Family Code, we will consider your argument.

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Therefore, section 552.101 encompasses confidentiality provisions such as Family Code section 58.007. Section 58.007 of the Family Code makes confidential juvenile law enforcement records relating to delinquent conduct or conduct indicating a need for supervision. *See* Fam. Code § 51.03. While the requested information involves a juvenile, it does not involve records of a juvenile engaging in delinquent conduct or conduct indicating a need for supervision. Therefore, section 58.007 of the Family Code, as encompassed by section 552.101 of the Government Code, is inapplicable to the requested information. As you raise no other argument for withholding the information, and no other compelling reason exists to withhold the information, the city must release the information to the requestor.

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,



E. Joanna Fitzgerald  
Assistant Attorney General  
Open Records Division

EJF/nc

Ref: ID# 130275

Encl. Submitted documents

cc: Mr. Jeff Branscome  
308 Woodstream Circle  
Friendswood, Texas 77546  
(w/o enclosures)