



December 10, 1999

Mr. Sim W. Goodall
Police Legal Advisor
City of Arlington
101 West Abram Street
Box 231
Arlington, Texas 76004-0231

OR99-3581

Dear Mr. Goodall:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 131290.

The City of Arlington (the "city") received a request for "information on the location of each sexual assault, by block number, that occurred between January 1, 1992 and December 31, 1997 within crime grid area 8." You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code.

Section 552.101 requires withholding, *inter alia*, information made confidential by statute. Subsection (a) of section 261.201 of the Family Code provides:

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with . . . [the Family] code and applicable federal or state law or under rules adopted by an investigating agency:

- (1) a report of alleged or suspected abuse or neglect made under . . . chapter [261 of the Family Code] and the identity of the person making the report; and
- (2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and

working papers used or developed in an investigation under . . . chapter [261 of the Family Code] or in providing services as a result of an investigation.

Your exhibits B and C consist of information pertaining to sexual assaults of juveniles. This information is subject to section 261.201. Thus, this information may be disclosed only for purposes consistent with the Family Code and applicable federal or state law or under rules adopted by the city, which is the agency that investigated the allegation. Since you have not informed this office that the city has adopted any rules providing for release of this information, we conclude that the information at issue is confidential and may not be disclosed.

Section 552.101 of the Government Code also protects “information considered to be confidential by . . . judicial decision,” including information coming within the common-law right to privacy. *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Common-law privacy protects information if it is highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, *and* it is of no legitimate concern to the public. *Id.* at 683-85.

Your exhibit D consists of three police reports on sexual assaults in which pseudonyms are used for the victims. Your exhibit E consists of twelve police reports on sexual assaults in which it appears that the victims are identified by name. In our opinion, common-law privacy requires that identifying information regarding these victims be withheld. *See, e.g.*, Open Records Decision No. 339 (1982). Although you contend that these files should be withheld in their entirety, we believe that the requirements of common-law privacy may be satisfied by redacting, prior to release, identifying information such as the victim’s name (if given),¹ work information, the names of others such as family members through whom the victim could be identified, the victims’ and such other individuals’ addresses and telephone numbers, and the locations of the crimes if they coincide with the victims’ addresses or otherwise tend to specifically identify the victim. We caution that where the information has been so de-identified, details of the offenses, even if unsavory, and other data contained in the submitted information, are not protected by common-law privacy.

We note, finally, that some of the submitted information is subject to section 552.130, which provides in relevant part as follows:

- (a) Information is excepted from [required public disclosure] if the information relates to:

¹Note that pseudonyms are not identifying information and therefore should be released.

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]
- (2) a motor vehicle title or registration issued by an agency of this state[.]

Driver's license and license plate number information in the submitted records must be withheld under section 552.130. Except as noted above, the submitted information must be released.

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).

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,



William Walker
Assistant Attorney General
Open Records Division

WMW/ljp

Ref: ID# 131290

Encl. Submitted documents

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(w/o enclosures)