



December 10, 1999

Mr. Kevin W. Kapitan
Police Advisor
Fort Worth Police Department
350 West Belknap Street
Fort Worth, Texas 76134

OR99-3584

Dear Mr. Kapitan:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 130488.

The Fort Worth Police Department (the "department") received a request for ten categories of information related to a specified individual. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. You have submitted information to this office for review which you assert is responsive to this request. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This exception encompasses information made confidential by statute. With exceptions that do not apply here, law enforcement records and files concerning a child may not be disclosed to the public. Fam. Code § 58.007. This statute governs records of activities that occurred on or after September 1, 1997. You relate that the specified individual is a child. From our review of the submitted information we conclude that it concerns juvenile conduct that occurred after September 1, 1997. Thus, you must withhold the submitted information under section 552.101 of the Government Code in conjunction with Family Code section 58.007(c). Likewise, any responsive criminal history record information governed by chapter 411 of the Government Code or Family Code section 58.106 must be withheld. Open Record Decision No. 655 (1997).

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,



Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/ch

Ref: ID# 130488

Encl: Submitted documents

cc: Mr. George Griffith
Attorney at Law
120 E. Abram Street
Arlington, Texas 76010
(w/o enclosures)