



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 30, 1993

Ms. Marcie L. Trettin
Staff Attorney
Texas Commission on Fire Protection
P.O. Box 2286
Austin, Texas 78768-2286

OR93-128

Dear Ms. Trettin:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 18357.

The Texas Commission on Fire Protection ("the commission") received an open records request for its file on an arson investigation in Crystal City, Texas. You contend that the requested information, which is being held by the State Fire Marshall, comes under the protection of sections 3(a)(1) and 3(a)(8) of the Open Records Act.

Section 3(a)(1) protects "information deemed confidential by law, either Constitutional, *statutory*, or by judicial decision (emphasis added)." You contend that section 51.14(d) of the Family Code makes the records at issue confidential because five juveniles have been arrested in connection with the fire. Section 51.14(d), which deals with juvenile records held by law enforcement agencies,¹ provides in pertinent part:

(d) Except for files and records relating to a charge for which a child is transferred under Section 54.02 of this code to a criminal court for prosecution, the law-enforcement files and records are not open to public inspection nor may their contents be disclosed to the public, but inspection of the files and records is permitted by:

- (1) a juvenile court having the child before it in any proceeding;
- (2) an attorney for a party to the proceeding; and

¹The office of the State Fire Marshal is a law enforcement agency for purposes of the Open Records Act. See Open Records Decision No. 134 (1976). See Gov't Code §§ 417.004(b) (designating State Fire Marshall as state's chief investigator of arson).

(3) law-enforcement officers when necessary for the discharge of their official duties.

Fam. Code § 51.14(d). This subsection lists the persons or entities who may gain access to these records; the subsection does not grant the law-enforcement officials who control these documents discretion as to who else may see them. This is in contrast to other subsections in section 51.14 which allow "with leave of the juvenile court" inspection of other juvenile records by any person "with a legitimate interest." *See, e.g.,* § 51.14(a)(4) and (b)(4). Although the attorney general has held that provisions of section 51.14 are not violated by the release of general statistical law-enforcement data that provides no real opportunity for identification of the juvenile, *see* Attorney General Opinion H-529 (1975), detailed reports of alleged delinquent conduct must be withheld. *See* Open Records Decision No. 181 (1977).

It is not apparent to this office, and therefore we cannot conclude, that the individual making the open records request is authorized access to the records under section 51.14(d). Absent proof of such authorization, the commission must withhold these documents pursuant to section 3(a)(1) of the Open Records Act.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR93-128.

Yours very truly,



Celeste A. Baker
Assistant Attorney General
Opinion Committee

CAB/RWP/le

Ref.: ID# 18357

Enclosures: Submitted documents

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