



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 11, 1996

Ms. Cathy Cunningham
Senior Assistant City Attorney
City of Irving
P.O. Box 152288
Irving, Texas 75015-2288

OR96-0024

Dear Ms. Cunningham:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 37551.

The City of Irving (the "city") received a request for a certain fire investigator's report. You state that the requested records contain information concerning the possible criminal activity of a juvenile. You request whether the Family Code requires that the requested information be withheld from required public disclosure pursuant to section 552.101 of the Government Code.

Section 51.14(d) of the Family Code provides:

Except as provided by Article 15.27, Code of Criminal Procedure, and 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
- (3) law-enforcement officers when necessary for the discharge of their official duties.¹

¹The Seventy-fourth Legislature, in House Bill 327, has significantly amended portions of the Family Code governing access to juvenile records, including the repeal of section 51.14 and its substantial revision in chapter 58 of the Family Code, effective January 1, 1996. See Act of May 27, 1995, 74th Leg.,

Ref: ID# 37551

Enclosures: Submitted documents

cc: Mr. Richard J. Bryant
516 Dyer Street
Irving, Texas 75061
(w/o enclosures)

Section 51.02 provides that in title 3 of the Family Code "child" has the following meaning:

- (1) "Child" means a person who is:
 - (A) ten years of age or older and under 17 years of age; or
 - (B) seventeen years of age or older and under 18 years of age who is alleged or found to have engaged in delinquent conduct or conduct indicating a need for supervision as a result of acts committed before becoming 17 years of age.²

Title 3 of the Family Code governs delinquent children and children in need of supervision. However, a child cannot be declared to be a delinquent child subject to a proceeding under title 3 unless he is within the age limit set forth in the statute. *See Steed v. State*, 183 S.W.2d 458, 460 (Tex. 1944); *Ballard v. State*, 192 S.W.2d 329, 330 (Tex. Civ. App.--Amarillo 1946). The information in question concerns a juvenile whose age at the time of the incident was nine. Accordingly, the records concern an individual who is not within the definition of "child" for purposes of section 51.14(d). Therefore, you may not withhold the requested information under section 552.101 as information made confidential by statute.

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.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/LBC/ch

(Footnote continued)

R.S., ch. 262, §§ 53, 100, 105, 1995 Tex. Sess. Law Serv. 2517, 2549, 2590. We do not address in this ruling the extent to which these recent amendments to the Family Code will affect requests for this type of information that are made on or after January 1, 1996.

²See *id.* § 3, 1995 Tex. Sess. Law Serv. at 2518; see also *supra* note 1.