



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 26, 1996

Ms. Sheree L. Rabe
Assistant City Attorney
City of Georgetown
P.O. Box 409
Georgetown, Texas 78627-0409

OR96-0082

Dear Ms Rabe:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 38051.

The City of Georgetown (the "city") received two open records requests from an individual for police department records pertaining to an incident involving three children aged 10, 9, and 7. You contend that all of the police department records coming within the ambit of the request are made confidential under section 51.14(d) of the Family Code¹ and thus must be withheld from the public pursuant to section 552.101 of the Government Code.²

Title 3 of the Family Code, which contains Chapter 51, relates to delinquent children and children in need of supervision. Section 51.14 of the Family Code, dealing with juvenile records, provides in pertinent part:

(c) Except as provided by this subsection, law-enforcement files and records concerning *a child* shall be kept separate from files and

¹We note that in the recent legislative session, the 74th Legislature repealed section 51.14 of the Family Code, effective January 1, 1996, with regard to records of juvenile conduct occurring on or after that date. Act of May 27, 1995, 74th Leg., R.S., ch. 262, §§ 100, 105, 106, 1995 Tex. Sess. Law Serv. 2517, 2590-91 (Vernon). As the juvenile conduct here occurred before January 1, 1996, we do not believe this legislation affects this open records request.

²Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."

records of arrests of adults and shall be maintained on a local basis only and not sent to a central state or federal depository. . . .

(d) 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 [Emphasis added.]

Section 51.02 of the Family Code provides that:

In this title:

(1) 'Child' means a person who is:

(A) *ten years of age or older* and under 17 years of age [Emphasis added.]

We note that one of the children identified in the records at issue falls within the definition of "child" as defined by section 51.02(1)(A). Although this office has previously held that provisions of section 51.14 are not violated by the release of general statistical law-enforcement data which 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). If the reports are detailed enough to reveal a juvenile's identity, the reports cannot be released, even with the deletion of the juvenile's name. *See id.* Otherwise, anyone with knowledge of a certain juvenile's involvement in a particular incident could gain access to the police records about the incident and thus discover other information about an identified juvenile's actions. Accordingly, we conclude that the city must withhold the entire "Offense Report," which contains a detailed description of the ten year old child's activities.

On the other hand, you have also submitted to this office as responsive to the request a "Patrol Supplement," which only identifies the remaining two children involved in the incident in question. Because this record neither identifies a "child" as defined by section 51.02(1)(A) nor describes the conduct of the ten year old, we conclude that the "Patrol Supplement" is not made confidential under section 51.14(d) of the Family Code. Because you have raised none of the act's other exceptions with regard to this document, we conclude that the city must release this record to the requestor. All other responsive documents must be withheld in their entirety pursuant to section 552.101 of the Government Code.

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,



Kay Hamilton Guajardo
Assistant Attorney General
Open Records Division

KHG/RWP/ch

Ref.: ID# 38051

Enclosures: Submitted documents

cc: Mr. Gerry Anderson
Rt. 3, Box 916
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(w/o enclosures)