



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 18, 1996

Mr. Mark S. Houser
Vial, Hamilton, Koch & Knox
1717 Main Street, Suite 4400
Dallas, Texas 75201

OR96-0346

Dear Mr. Houser:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID# 38676.

The City of Highland Village (the "city"), whom you represent, received an open records request for the city police department's records pertaining to an investigation of telephone harassment. The city received a request for the same records from an attorney for the requestor on August 9, 1995. In Open Records Letter 95-1390 (1995), this office ruled that the records were confidential under section 51.14(d) of the Family Code. We noted, however, the 74th Legislature repealed section 51.14, effective January 1, 1996, and we did not address in that ruling the effect of the legislature's action on requests made after January 1, 1996. The requestor subsequently resubmitted his request on January 31, 1996. You have submitted the information to us for review and ask whether section 552.101 of the Government Code in conjunction with section 51.14(d) of the Family Code continues to except it from required public disclosure.

Section 51.14(d) of the Family Code was repealed in the last legislative session. Act of May 27, 1995, 74th Leg., R.S., ch. 262, §§ 100, 105, 106, 1995 Tex. Sess. Law Serv. 2517, 2590-91 (Vernon). Family Code sections 58.007, 58.102, and 58.106 essentially replaced section 51.14. Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 53, 1995 Tex. Sess. Law Serv. 2517, 2552-53, 2555. However, these amendments apply only to conduct that occurs on or after January 1, 1996. *Id.* § 106, 1995 Tex. Sess. Law Serv. at 2591. "Conduct that occurs before January 1, 1996, is governed by the law in effect at the time the conduct occurred, and that law is continued in effect for that purpose." *Id.* The requested information concerns conduct that occurred before January 1, 1996. Accordingly, section 51.14(d) continues to make the requested information confidential.

You suggest that the requestor, an attorney acting on behalf of the victim of the harassment, may have a special right of access to the information. In Attorney General Opinion DM-334 (1995), this office concluded that it would be within the discretion of the juvenile court to determine whether public policy justified the release of juvenile *court* records to the victim of juvenile conduct. That conclusion, however, was based on language found in section 51.14(a)(4) which authorizes "with leave of juvenile court" the release of juvenile court records to "any other person, agency, or institution having a legitimate interest in the proceeding or in the work of the court." No similar exception to confidentiality is found in section 51.14(d) with respect to law enforcement records concerning a juvenile offender. Thus, we do not believe that the rationale found in Attorney General Opinion DM-334 (1995) is applicable to these law enforcement records. Accordingly, we conclude that the city must withhold the requested information in its entirety under section 552.101 of the Government Code as information deemed confidential by law.

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 may 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,



Loretta R. DeHay
Assistant Attorney General
Open Records Division

LRD/ch

Enclosures: Submitted documents

Ref: ID# 38676

cc: Mr. Brad Bradshaw
312 Cuero Place
Highland Village, Texas 75067
(w/o enclosures)