



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

January 28, 1997

Mr. Gary W. Smith  
City Attorney  
P.O. Box 1049  
Greenville, Texas 75403-1049

OR97-0171

Dear Mr. Smith:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 103264.

The Greenville Police Department (the "department") received a request for any reports on a certain individual "which pertains to violent acts or any behavior that could be interpreted as harmful to himself or others." You claim that portions of the information is excepted from required public disclosure by sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Where an individual's criminal history information has been compiled by a governmental entity, the information takes on a character that implicates the individual's right to privacy. *See United States Dep't. of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989). In this instance, the requestor asks for all information concerning a certain person. In this case, we believe that this person's right to privacy has been implicated. Thus, where the named individual is a possible suspect, we conclude that the department must withhold this information under section 552.101 of the Government Code. *See id.*; *see also* Gov't Code § 411.106(b).<sup>1</sup> We have marked the information that must be withheld.

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<sup>1</sup>Because we make a determination under *Reporter's Committee*, we need not address your other arguments under section 552.101 or 552.108. If you receive a subsequent request for this information, you should re-assert your arguments against disclosure at that time. *See* Gov't Code § 552.352 (distribution of confidential information is a criminal offense).

We note, however, that one of the requested documents does not involve the named individual as a possible suspect. This information is not deemed confidential under *Reporter's Committee*. Thus, we will consider your arguments against disclosure of this information. You first argue that under section 51.14(d) of the Family Code, some of the information is confidential because it involves juvenile suspects. You have highlighted this information in yellow. Section 51.14(d) of the Family Code was repealed by the Seventy-fourth legislature. Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex. Gen. Laws 2517, 2590 (current version at Family Code § 58.007 *et seq.*). However, the repealing bill provides that “[c]onduct 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.* § 106, 1995 Tex. Gen. Laws at 2591; Open Records Decision No. 644 (1996) at 5. The requested report involves juvenile conduct that occurred before January 1, 1996.

At the time the conduct occurred, the applicable law in effect was Family Code section 51.14 which provided, in pertinent part:

(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 [concerning a child] are not open to public inspection nor may their contents be disclosed to the public.

Act of May 22, 1993, 73d Leg., R.S., ch. 461, § 3, 1993 Tex. Gen. Laws 1850, 1852, *repealed by* Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex. Gen. Laws 2517, 2590. In Open Records Decision No. 181 (1977) at 2, this office held that former section 51.14(d) excepts police reports which identify juveniles or furnish a basis for their identification. *See also* Open Records Decision No. 394 (1983) at 4-5 (applying former Fam. Code § 51.14(d) to “police blotter” and related information). You do not indicate that the offense reports at issue here relate to charges for which the city transferred the juvenile under section 54.02 of the Family Code<sup>2</sup> to a criminal court for prosecution, or that article 15.27 of the Code of Criminal Procedure<sup>3</sup> applies. Moreover, none of the exceptions to former section 51.14(d) appear to apply to the requestor. *See* Act of May 22, 1993, 73d Leg., R.S., ch. 461, § 3, 1993 Tex. Gen. Laws 1850, 1852 (repealed 1995) (formerly Fam. Code § 51.14(d)(1), (2), (3)). Accordingly, we conclude that the department must withhold the juvenile records that are marked in yellow under section 552.101 of the Government Code as information deemed confidential by law.

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<sup>2</sup>Act of May 25, 1973, 63d Leg., R.S., ch. 544, § 1, 1973 Tex. Gen. Laws 1460, 1476-77, *amended by* Act of May 19, 1975, 64th Leg., R.S., ch. 693, §§ 15-16, 1975 Tex. Gen. Laws 2152, 2156-57 (adding subsecs. (m), (j), (k), (l)), *amended by* Act of May 8, 1987, 70th Leg., R.S., ch. 140, §§ 1-3, 1987 Tex. Gen. Laws 309 (amending subsecs. (a), (h), (j)).

<sup>3</sup>Act of May 22, 1993, 73d Leg., R.S., ch. 461, § 1, 1993 Tex. Gen. Laws 1850-51.

You next contend that certain other information within the document is excepted from disclosure by section 552.108 of the Government Code. You have marked this information in green and red. Section 552.108 excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime,” and “[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution.” Gov’t Code § 552.108; *see Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). The document at issue deals with the detection, investigation, or prosecution of crime. We therefore conclude that section 552.108 of the Government Code excepts the green and red marked portions from required public disclosure.

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 questions about this ruling, please contact our office.

Yours very truly,



Don Ballard  
Assistant Attorney General  
Open Records Division

JDB/ch

Ref: ID# 103264

Enclosures: Submitted documents

cc: Ms. Kerena Talley  
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(w/o enclosures)