



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 28, 1997

Mr. Kevin D. Pagan
Assistant City Attorney
City of McAllen
P.O. Box 220
McAllen, Texas 78505-0220

OR97-1947

Dear Mr. Pagan:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 109557.

The McAllen Police Department (the "department") received a request for three particular offense reports. You inform us that you have released the front page offense report information; however, you contend that the remaining requested information is excepted from disclosure pursuant to section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

First, we note that offense report #95-058968 is excepted from disclosure under section 552.101 of the Government Code¹ in conjunction with section 51.14(d) of the Family Code. Section 51.14(d) of the Family Code was repealed by the Seventy-fourth legislature.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. This particular offense 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

¹Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."

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 Laws 1850, 1852, *repealed by* Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex.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 department transferred the juvenile under section 54.02 of the Family Code² to a criminal court for prosecution, or that article 15.27 of the Code of Criminal Procedure³ applies. Moreover, none of the exceptions to former section 51.14(d) appears 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 offense report #95-058968 under section 552.101 of the Government Code as information deemed confidential by law.

We now consider your section 552.108 claim as to the remainder of the information. 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). We note, however, that information normally found on the front page of an offense report is generally considered public. *Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Thus, you must release the type of information that is considered to be front page offense report information, even if this information is not actually located on the front page of the offense report. *See* Open Records Decision No. 127 (1976) (summarizing the types of information deemed public by *Houston Chronicle*). The documents at issue deal with the detection, investigation, or prosecution of crime. We therefore conclude that, except for front page offense report information, section 552.108 of the Government Code excepts the remaining requested records from required public disclosure, although you may choose to release all or part of the information at issue that is not otherwise confidential by law. Gov’t Code § 552.007.

²Act 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)).

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

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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/ch

Ref.: ID# 109557

Enclosures: Submitted documents

cc: Mr. Richard Dillon
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(w/o enclosures)

