



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

April 14, 1998

Ms. Kristi A. Taylor  
Assistant City Attorney  
Neiman & Barnes, L.L.P.  
P.O. Box 777  
Lewisville, Texas 75067

OR98-0943

Dear Ms. Taylor:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 114786.

The City of Lewisville Police Department (the "department"), which you represent, received a request for offense report number 95-9910. You claim that the requested information is excepted from disclosure pursuant to sections 552.101 and 552.108 of the Government Code. We have considered your arguments 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." This section encompasses information protected by other statutes. You assert that the requested information is confidential under section 58.007(c) of the Family Code. Prior to its repeal by the Seventy-fourth Legislature, section 51.14(d) of the Family Code provided for the confidentiality of juvenile law enforcement records.<sup>1</sup> Law enforcement records pertaining to conduct occurring before January 1, 1996 are governed by former section 51.14(d), which was continued in effect for that purpose. Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex. Gen. Laws 2517, 2591 (Vernon). The documents at issue pertain to juvenile conduct that occurred before January 1, 1996. Therefore, section 51.14(d) is the governing provision in this instance. Section 51.14(d) provides 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

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<sup>1</sup>We note that the Seventy-fourth Legislature repealed section 51.14 of the Family Code and replaced it with section 58.007 of the Family Code. We note also that the Seventy-fifth Legislature amended section 58.007 of the Family Code.

criminal court for prosecution, the law-enforcement files and records [of a child] are not open to public inspection nor may their contents be disclosed to the public . . . .

However, in this case, section 51.14(d) is inapplicable because the juvenile involved is not a "child" as defined by defined by section 51.02 of the Family Code. A "child" is 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.

Fam. Code § 51.02(1). Here, the juvenile at issue was seven years of age when the conduct occurred. Therefore, the department may not withhold these documents from the requestor based on section 51.14(d) of the Family Code.

Next, you claim that, except for the front page offense report information which you have already released to the requestor, the remaining requested information is excepted from public disclosure by section 552.108 of the Government Code. Section 552.108 of the Government Code excepts from required public disclosure

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if:

....

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]

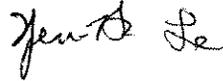
....

(c) This section does not except from [public disclosure] information that is basic information about an arrested person, an arrest, or a crime.

You indicate that the reported offense did not result in conviction or deferred adjudication. We conclude that you may withhold the offense report under section 552.108(a)(2). Although section 552.108(a)(2) authorizes you to withhold the requested information from disclosure, you may choose to release all or part of the information at issue that is not otherwise confidential by law. *See* Gov't Code § 552.007.

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 any questions about this ruling, please contact our office.

Yours very truly,



Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/rho

Ref: ID# 114786

Enclosures: Submitted documents

cc: Mr. Flann Bailey  
22114 Manor Estates  
Katy, Texas 77449  
(w/o enclosures)