



February 16, 1999

Mr. Michael Bostic
Assistant City Attorney
Office of the City Attorney
Municipal Building
Dallas, Texas 75201

OR99-0458

Dear Mr. Bostic:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID # 122314.

The Dallas Police Department (the “department”) received a request for all records relating to an individual’s three arrests. You contend that the entire file should be withheld pursuant to sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of the responsive information.¹

You argue that the some of the documents are confidential and must be withheld because they involve juvenile conduct that occurred before January 1, 1996. 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. Section 51.14(d) of the Family Code provided for the

¹We assume that the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

confidentiality of juvenile law enforcement records.² 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 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). Arrestee's date of birth is February 7, 1971 and the submitted report indicates that the offense was committed on November 13, 1988. Therefore, you may not withhold these documents from the requestor based on section 51.14(d) of the Family Code.

Next, you argue that the information is excepted from disclosure under section 552.108 of the Government Code. Section 552.108 reads in pertinent part as follows:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted [from required public disclosure] if:

²We 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.

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(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; or

• • •

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

You contend that this file contains information that relates to an investigation of murder that has not resulted in conviction or deferred adjudication, and ask that this information be excepted from disclosure. You must release all of the “basic information about an arrested person, an arrest, or a crime” that must be disclosed pursuant to Gov’t Code § 552.108(c). As the requested information relates to a pending criminal prosecution, we find you have not shown that the submitted report (cocaine delivery) would interfere with the murder investigation as required by section 552.108 (a)(1). In addition, since the case did not conclude in a result other than a conviction or deferred adjudication, section 552.108 (a)(2) does not apply. Accordingly, we conclude that the requested information may not be withheld from the requestor based on sections 552.108 (a)(1) or (a)(2).

Next, you argue that some of information is confidential by law, either constitutional, statutory or by judicial decision pursuant to section 552.101 of the Government Code. Criminal history report information (“CHRI”) that has been compiled by a governmental entity is protected by the common-law right to privacy. *See United States Dep’t of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989). Here, the requestor is asking for records pertaining to specific arrest and not for a person’s criminal history compilation. Therefore, privacy is not implicated. You may not withhold the information under Reporters Comm. and section 552.101.

Section 552.130 of the Government Code excepts from disclosure information that relates to motor vehicle operators licenses or permits or motor vehicle title or registration issued by an agency of the state, except as authorized by chapter 730 of the Transportation Code. The submitted information includes VIN and license plate numbers. There are no provisions for release of this information in chapter 730 of the Transportation Code. This

information must therefore not be released. In conclusion, all of the information requested must be released except for the section 552.130 information which is marked. (See green tab).

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.

Sincerely,

David Van Brunt Price
David Van Brunt Price
Assistant Attorney General
Open Records Division

DVP\nc

Ref: ID# 122314

Enclosures: Submitted documents

cc: Ms. Barbara Joy Kearney
P.O. Box 5127
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(w/o enclosures)