ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 18, 2012

Mr. John Ohnemiller
First Assistant City Attorney
City of Midland
P.O. Box 1152
Midland, Texas 79702-1152

OR2012-05500

Dear Mr. Ohnemiller:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 451251.

The Midland Police Department (the "department") received a request for information pertaining to a specific crime involving a named party. You claim the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered your claimed exception and reviewed the submitted report. We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (stating that interested party may submit comments explaining why requested records should or should not be released).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. You claim the requested information is confidential under section 552.101 in conjunction with section 58.007 of the Family Code. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997, are confidential under section 58.007(c) of the Family Code. Section 58.007 is inapplicable in this instance because the juvenile conduct at issue occurred in 1995. However, 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 pertaining to conduct occurring before January 1, 1996. Former section 51.14(d) was continued in effect for that purpose. *See* Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex. Gen. Laws 2517, 2591. Former section 51.14 provided, in relevant 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 are not open to public inspection nor may their contents be disclosed to the public, but inspection of the files and records is permitted by:
>
> (1) a juvenile court having the child before it in any proceeding;
>
> (2) an attorney for a party to the proceeding; and
>
> (3) law-enforcement officers when necessary for the discharge of their official duties.

Fam. Code § 51.14 (repealed 1995). Section 51.14 applies to records of a "child," which is defined as a person who is ten years of age or older and under seventeen years of age. *See id.* § 51.02(2). The submitted report involves a sixteen-year-old child suspected of sexual assault. Thus, the report is a record of juvenile delinquent conduct that occurred prior to January 1, 1996. *See id.* § 51.03 (defining "delinquent conduct"). The exceptions to former section 51.14(d) do not 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 the department must withhold the submitted report in its entirety under section 552.101 of the Government Code in conjunction with former section 51.14 of the Family Code.[1]

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

June B. Harden
Assistant Attorney General
Open Records Division

JBH/som

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[1]As our ruling is dispositive, we need not address your remaining argument against disclosure.

Ref: ID# 451251

Enc. Submitted documents

c: Requestor
(w/o enclosures)