



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 29, 2014

Mr. Grant Jordan
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, Third Floor
Fort Worth, Texas 76102

OR2014-07041

Dear Mr. Jordan:

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# 521095 (PIR No. W031795).

The Fort Worth Police Department (the "department") received a request for information pertaining to a named individual. You state the department has released some of the requested information. You also inform us you will redact information in accordance with section 552.130(c) of the Government Code.¹ You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.²

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses statutory confidentiality provisions. 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. Law enforcement records pertaining to juvenile criminal conduct occurring before January 1, 1996, are governed by the former

¹Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

²We note the department did not comply with the requirements of section 552.301 of the Government Code. *See* Gov't Code § 552.301(b). Nonetheless, section 552.101 of the Government Code is a mandatory exception that can provide a compelling reason to overcome the presumption of openness caused by failure to comply with section 552.301. *See id.* §§ 552.007, .302. Thus, we will consider the department's claim.

section 51.14 of the Family Code, which was continued in effect for that purpose.³ The former section 51.14 provided in relevant part as follows:

(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. The submitted information lists as suspects individuals who were ten years of age or older and under seventeen years of age at the time of the offense. *See* Fam. Code § 52.01 (defining “child” for purposes of title 3 of Family Code as individual who is ten years of age or older and under seventeen years of age at time of offense). You do not indicate that the information at issue here relates to charges for which the department transferred a juvenile under section 54.02 of the Family Code⁴ to a criminal court for prosecution, or that article 15.27 of the Code of Criminal procedure applies.⁵ Because the submitted information pertains to juvenile conduct that occurred prior to January 1, 1996, we determine that it is confidential under former section 51.14(d).

However, you assert the requestor has a right of access to the records at issue pursuant to section 51.14(d)(2) of the Family Code. You indicate the requestor represents one of the suspects in the juvenile reports. Section 51.14(d)(2) states disclosure is permitted to “an attorney for a party to the proceeding.”

However, we note the requestor’s client was seventeen years of age or older at the time of some of the offenses at issue, and thus is listed as an adult in these reports. Because the requestor’s client is listed as an adult in some of the reports at issue, he was not a party to the

³Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex. Gen. Laws 2517, 2591.

⁴Act of May 24, 1973, 63rd 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 (amended subsecs. (a), (h), (j)).

⁵Act of May 22, 1993, 73rd Leg., R.S., ch. 461 § 1, 1993 Tex. Gen. Laws 1850-51.

Family Code proceeding, if any, related to these matters. We believe section 51.14(d)(2) provides for inspection only by the attorney representing a party in the proceeding subject to the Family Code. Because the requestor's client was not a party to the Family Code proceedings, the requestor does not have a right of access to this information pursuant to section 51.14(d). *See* Act of May 22, 1993, 73rd Leg., R.S., ch. 461, § 3, 1993 Tex. Gen. Laws 1850, 1852 (repealed 1995) (formerly Fam. Code § 51.14(d)(1), (2), (3)). Therefore, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with former section 51.14(d) of the Family Code.

The remaining reports list the requestor's client as a suspect who is ten years of age or older and under seventeen years of age at the time of the offenses. Thus, the requestor's client was a party to the Family Code proceedings related to these matters, and the requestor has a right of access to the information pertaining to his client in these reports pursuant to former section 51.14(d)(2) of the Family Code. Therefore, the department must release the remaining information to this requestor pursuant to former section 51.14(d)(2) of the Family Code.

In summary, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with former section 51.14(d) of the Family Code. The department must release the remaining information to this requestor pursuant to former section 51.14(d)(2) of the Family Code.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 521095

Enc. Submitted documents

c: Requestor
(w/o enclosures)