



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 2, 2014

Ms. Evelyn W. Kimeu
HPD Staff Attorney
City of Houston
1200 Travis
Houston, Texas 77002-6000

OR2014-17568

Dear Ms. Kimeu:

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# 538219 (ORU No. 14-4400).

The Houston Police Department (the "department") received a request for all juvenile records involving the requestor's client including a specified arrest.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. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information 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. This section encompasses statutory confidentiality provisions. Prior to its

¹We note the department sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

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 section 51.14 of the Family Code, which was continued in effect for that purpose.² 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 pertains to delinquent conduct or conduct indicating a need for supervision by that occurred prior to January 1, 1996 involving individuals who were ten years of age or older and under seventeen years of age at the time of the offense. *See id.* § 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); *see also id.* § 51.03 (defining “delinquent conduct” and “conduct indicating a need for supervision” for purposes of the Family Code). 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 Code³ to a criminal court for prosecution, or that article 15.27 of the Code of Criminal procedure applies.⁴ Because the submitted information pertains to juvenile conduct that occurred prior to January 1, 1996, we determine that it is generally confidential under former section 51.14(d).

The requestor claims he has a right of access to the records at issue pursuant to section 51.14(d)(2) of the Family Code. The requestor indicates he represents one of the

²Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex. Gen. Laws 2517, 2591.

³Act 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)).

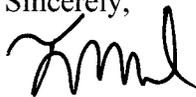
⁴Act of May 22, 1993, 73rd Leg., R.S., ch. 461 § 1, 1993 Tex. Gen. Laws 1850-51.

suspects in the submitted juvenile reports. Section 51.14(d)(2) states disclosure is permitted to "an attorney for a party to the proceeding." However, the requestor does not state, and we have no indication, he represents this individual in a proceeding subject to the Family Code. Accordingly, we find the requestor is not a person or entity authorized to access this information under former section 51.14(d)(2). Therefore, the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with former section 51.14(d) 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,



Tim Neal
Assistant Attorney General
Open Records Division

TN/bhf

Ref: ID# 538219

Enc. Submitted documents

c: Requestor
(w/o enclosures)