



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 7, 2015

Ms. Kristie L. Lewis
HPD Staff Attorney
City of Houston
1200 Travis
Houston, Texas 77002-6000

OR2015-25519

Dear Ms. Lewis:

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# 589902 (ORU No. 15-6158).

The Houston Police Department (the "department") received a request for a specified police report. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."¹ Gov't Code § 552.101. This section encompasses information protected by other statutes, such as former section 51.14(d) of the Family Code. Prior to its repeal by the Seventy-Fourth Legislature, former section 51.14 provided for the confidentiality of juvenile law enforcement records. *See* Open Records Decision No. 181 (1977) (concluding that former section 51.14(d) of the Family Code excepts police reports which identify juvenile suspects or furnish basis for their identification). Law enforcement records pertaining to juvenile conduct occurring before January 1, 1996 are governed by former section 51.14(d), which 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 pertinent part:

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

(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(d) (repealed 1995). A “child” is defined as a person who is ten years of age or older and under seventeen years of age at the time of the conduct. *See id.* § 51.02(2). Upon review, we find the submitted information pertains to conduct that occurred prior to January 1, 1996. However, we are unable to determine the age of the alleged offender at the time of the incidents in question. Therefore, we must rule conditionally. The requestor does not fall within the categories in former section 51.14(d) under which inspection of the records would be permitted. *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, to the extent the alleged offender was ten years of age or older and under seventeen years of age at the time of the conduct, the submitted information is confidential pursuant to former section 51.14(d) of the Family Code and must be withheld in its entirety under section 552.101 of the Government Code. However, to the extent the alleged offender was not ten years of age or older and under seventeen years of age at the time of the conduct, the submitted information is not confidential pursuant to former section 51.14(d) and may not be withheld under section 552.101 on that basis.

To the extent the submitted information is not confidential pursuant to section 552.101 of the Government Code in conjunction with former section 51.14(d) of the Family Code, you claim the submitted information may be withheld under section 552.108(a)(2) of the Government Code. Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov’t Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You state the submitted information relates to a closed criminal investigation that did not result in conviction or deferred adjudication. Accordingly, we find section 552.108(a)(2) is applicable to the submitted information.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531

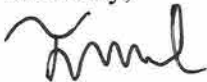
S.W.2d 177, 186-87 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, to the extent the submitted information is not confidential pursuant to section 552.101 of the Government Code in conjunction with former section 51.14(d) of the Family Code, with the exception of basic information, the department may withhold the submitted information under section 552.108(a)(2) of the Government Code.

In summary, to the extent the alleged offender was ten years of age or older and under seventeen years of age at the time of the conduct, the submitted information is confidential pursuant to former section 51.14(d) of the Family Code and must be withheld in its entirety under section 552.101 of the Government Code. To the extent the submitted information is not confidential pursuant to section 552.101 of the Government Code in conjunction with former section 51.14(d) of the Family Code, then with the exception of basic information, which must be released to this requestor, the department may withhold the submitted information under section 552.108(a)(2) of the Government Code.²

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

²To the extent the submitted information is not confidential pursuant to section 552.101 of the Government Code in conjunction with former section 51.14(d) of the Family Code, we note the requestor has a right of access to the information being released in this instance. *See* Fam. Code § 261.201(k). Thus, if the department receives another request for this information from a different requestor, the department must seek another ruling from this office.

Ref: ID# 589902

Enc. Submitted documents

c: Requestor
(w/o enclosures)