



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

September 14, 1995

Mr. Robert G. Schleier, Jr.  
Schleier & Brown, P.C.  
Lamar Lewis Building  
1100 Stone Road, Suite 101  
Kilgore, Texas 75662

OR95-937

Dear Mr. Schleier:

On behalf of the City of Kilgore, you ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. We assigned your request ID# 28243.

The City of Kilgore (the "city") received a request for the incident report, 911 tape or any other tape recording, and any subsequent information developed from questioning individuals concerning multiple murders at a lounge in the city. You contend that section 552.108 of the Government Code exempts the requested information from required public disclosure.

You state that three subjects have been indicted but have not been tried. We note that one of the subjects is a juvenile. Although the attorney general will not ordinarily raise an exception that might apply but that the governmental body has failed to claim, *see* Open Records Decision Nos. 455 (1987) at 3, 325 (1982) at 1, we will raise section 552.101 because the release of confidential information could impair the rights of third parties and because its improper release constitutes a misdemeanor. *See* Gov't Code § 552.352. Section 552.101 exempts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." We conclude that section 552.101 of the Government Code in conjunction with section 51.14 of the Family Code exempts the requested information from required public disclosure.

Family Code section 51.14 provides in part as follows:

(a) Except as provided by Subsection (e) of this section, or by Article 15.27, Code of Criminal Procedure, all files and records of a juvenile court, a clerk of court, or a prosecuting attorney relating to a child who is a party to a proceeding under this title are open to inspection only by:

(1) the judge, probation officers, and professional staff or consultants of the juvenile court;

(2) an attorney for a party to the proceeding;

(3) a public or private agency or institution providing supervision of the child by arrangement of the juvenile court, or having custody of the child under juvenile court order; or

(4) with leave of juvenile court, any other person, agency, or institution having a legitimate interest in the proceeding or in the work of the court.

....

(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

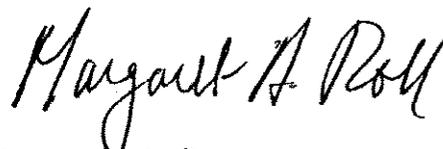
(3) law-enforcement officers when necessary for the discharge of their official duties. [Emphasis added.]

In Open Records Decision No. 181 (1977) at 2, this office concluded that section 51.14(d) of the Family Code exempts from disclosure in its entirety a police report that identifies or furnishes a basis for identifying a juvenile who is a party to a proceeding under title 3 of the Family Code. See also Open Records Decision No. 394 (1983) at 4-5 (applying section 51.14(d) to "police blotter" and related information). Section 15.27 of the Code of Criminal Procedure deals with notifying a juvenile's school of the juvenile's arrest and quite clearly does not apply in this case. In addition, the District Attorney for

Gregg County informed this office that the juvenile involved has not been transferred to criminal court for prosecution under section 54.02 of the Family Code. Moreover, we do not understand any of the exceptions to subsections (a) or (d) of section 51.14 to apply here. Accordingly, we conclude that the city must withhold the requested information under section 552.101 of the Government Code in conjunction with section 51.14(d) unless and until the juvenile court transfers the juvenile to a criminal court for prosecution under section 54.02 of the Family Code. Because we conclude that you must withhold the requested information under section 552.101, we do not need to address your arguments under section 552.108.<sup>1</sup>

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 under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Margaret A. Roll  
Assistant Attorney General  
Open Records Division

MAR/LBC/rho

Ref.: ID# 28243

Enclosures: Submitted documents

cc: Mr. Mitch Mitchell  
Staff Writer  
Longview News-Journal  
P.O. Box 1719  
Longview, Texas 75606  
(w/o enclosures)

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<sup>1</sup>The Seventy-fourth Legislature, in House Bill 327, has significantly amended portions of the Family Code governing access to juvenile records, including the repeal of section 51.14 and its substantial revision in chapter 58 of the Family Code, effective January 1, 1996. See Act of May 27, 1995, 74th Leg., R.S., ch. 262, §§ 53, 100, 105, 1995 Tex. Sess. Law Serv. 2549, 2590 (Vernon). We do not address in this ruling the extent to which these recent amendments to the Family Code will affect requests for this information that are made on or after January 1, 1996.