



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 15, 1995

Mr. G. Mike Davis
State Fire Marshall
Texas Commission on Fire Protection
P.O. Box 2286
Austin, Texas 78768-2286

OR95-1256

Dear Mr. Davis:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 28299.

The Texas Commission on Fire Protection ("the commission") has received a request for the "fire report" on a fire that occurred in Sheridan, Texas on May 9, 1994. You assert that the requested information is excepted from disclosure pursuant to sections 552.101 and 552.108¹ of the Government Code.

Section 552.101 of the act excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." You assert that section 552.101 in conjunction with section 51.14(d) of the Family Code is applicable. Section 51.14(d) of the Family Code, provides, in pertinent part:

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

¹When applying section 552.108, this office distinguishes between cases that are still under active investigation and those that are closed. See Open Records Decision No. 611 (1992) at 2. On October 26, 1995, a representative from the commission confirmed in a telephone conversation that the investigation of this fire is now closed. As we resolve this matter under section 552.101, we need not address the applicability of section 552.108 at this time.

criminal court for prosecution, the law-enforcement files and records [concerning a child] are not open to public inspection nor may their contents be disclosed to the public

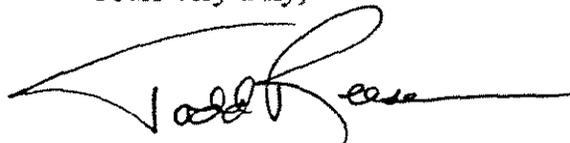
See also Open Records Decision No. 181 (1977) at 2 (holding that police reports which identify juveniles or furnish a basis for their identification are excepted by section 51.14(d)).

The state fire marshal is the chief investigator in charge of the investigation of arson and suspected arson in this state. Gov't Code § 417.004(b). Each member of an arson investigating unit commissioned by a city, a county, or the state is a peace officer. Gov't Code § 2.12(7). Thus, we believe that the files and records of the commission relating to investigation of arson and suspected arson are "law-enforcement files and records" within the meaning of section 51.14(d) of the Family Code. *Cf.* Open Records Decision No. 127 (1976) at 8-9 (the Arson Investigation Division of the Dallas Fire Department is a "law-enforcement agency" within the meaning of section 552.108).

We have examined the information submitted to us for review. We conclude that it identifies a juvenile or furnishes a basis for a juvenile's identification and none of the exceptions to the confidentiality provision set forth in section 51.14(d) apply in this instance. Accordingly, the fire report must be withheld from required public disclosure under section 552.101 of the Government Code in conjunction with section 51.14(d) of the Family Code.

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 may 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,

A handwritten signature in black ink, appearing to read "Todd Reese", with a long horizontal flourish extending to the right.

Todd Reese
Assistant Attorney General
Open Records Division

RTR/RHS/rho

Ref.: ID# 28299

Enclosures: Submitted documents

cc: Mr. David Chandler
State Farm Fire and Casualty Company
Greenspoint Service Center
15413 Vantage Parkway East, Suite 200
Houston, Texas 77032
(w/o enclosures)