



March 29, 1999

Ms. Lilia Ledesma-Gonzalez
Assistant City Attorney
City of McAllen
P.O. Box 220
McAllen, Texas 78505-0220

OR99-0851

Dear Ms. Ledesma-Gonzalez:

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# 123186.

The City of McAllen (the "city") received a request for a specified offense report.¹ In response to the request, you submit to this office for review a copy of the information at issue. You assert that the requested information is excepted from disclosure based on sections 552.101 and 552.108 of the Government Code.

We first consider your arguments against disclosure of the records under section 552.101, since the requested records pertain to juveniles. Section 552.101 protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," including information protected by other statutes. 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.² Law enforcement records pertaining to juvenile conduct occurring before January 1, 1996 are governed by the former section 51.14(d), which was continued in effect for that purpose. Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex. Gen. Laws 2517, 2591 (Vernon). The document at issue pertains to juvenile conduct that

¹We note that although you submitted the responsive record, in your letter to this office you also cite two other offense reports - numbers 93-35926 and 96-059828 - which were neither submitted nor appear to be responsive based on the requestor's request letter.

²We note that the Seventy-fourth Legislature repealed section 51.14 of the Family code and replaced it with section 58.007 of the Family code. The Seventy-fifth Legislature, however, amended section 58.007 once again to make juvenile law enforcement records confidential, effective September 1, 1997. Act of June 2, 1997, 75th Leg., R.S. ch. 1086 Tex. Sess. Law Serv. 4179, 4187 (Vernon).

occurred before January 1, 1996. Therefore, section 51.14(d) is applicable to offense report number 95-049477. Section 51.14(d) provides in pertinent part:

(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 [of a child] 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.

In Open Records Decision No. 181 at 2 (1977), this office held that former section 51.14(d) excepts police reports which identify juveniles or furnish a basis for their identification. *See also* Open Records Decision No. 394 at 4-5 (1983) (applying former Fam. Code § 51.14(d) to “police blotter” and related information). You do not indicate that the offense report at issue here relates to charges for which the city transferred the 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 Procedure⁴ applies. Moreover, it does not appear that any of the exceptions to former section 51.14(d) apply to the requestor. *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)). In this case, section 51.14(d) makes offense report number 95-049477 confidential. Therefore, we conclude that the city must withhold the juvenile records at issue.

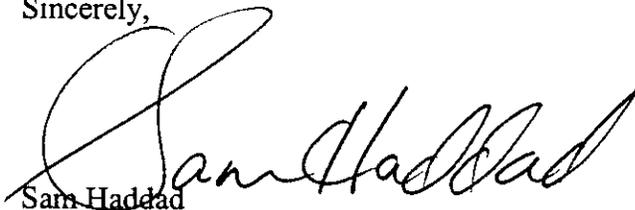
As we resolve your request under section 552.101, we need not specifically address your other claimed exception at this time. We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be

³Act of May 25, 1973, 63d 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 (amending subsecs. (a), (h), (j)).

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

relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink that reads "Sam Haddad". The signature is written in a cursive style with a large, looping initial "S".

Sam Haddad
Assistant Attorney General
Open Records Division

SH/nc

Ref.: ID# 123186

Enclosures: Submitted documents

cc: Mr. Arturo Garza
9422 Derrik
Houston, Texas 77080
(w/o enclosures)