



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 22, 2009

Ms. Christina R. Sanchez
Assistant County Attorney
El Paso County Texas
County Courthouse
500 East San Antonio, Room 503
El Paso, Texas 79901

OR2009-07021

Dear Ms Sanchez:

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# 344066.

The 34th Judicial District Attorney's Office (the "district attorney") received a request for witness statements related to a 1993 murder investigation. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.103 of the Government Code. We have considered the exceptions 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." Gov't Code § 552.101. This section encompasses former section 51.14(d) of the Family Code. 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. *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 criminal conduct occurring before January 1, 1996, are governed by former section 51.14 of the Family Code, which was

continued in effect for that purpose.¹ Section 51.14 applies to records of a “child,” which is defined as a person who is ten years of age or older and under seventeen years of age. *See* Fam. Code § 51.02(2). 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. Because the submitted information pertains to juvenile conduct that occurred prior to January 1, 1996, we conclude that it is governed by section 51.14. In this case, however, you state that the defendant was transferred under section 54.02 of the Family Code to a criminal court for prosecution. Files and records relating to such an individual would ordinarily not be confidential under section 51.14. However, based on our review, we agree that the information at issue lists as suspects other individuals who met the definition of “child” at the time of the offense. *See* Fam. Code § 52.01 (defining “child” for purposes of title 3 of Family Code). You do not inform us that any of the other juvenile suspects were transferred under section 54.02 to a criminal court for prosecution. Therefore, we determine that former section 51.14(d) is applicable to the submitted information. Thus, the district attorney must withhold the submitted information in its entirety pursuant to section 552.101 of the Government Code in conjunction with former section 51.14 of the Family Code. As our ruling is dispositive, we do not address your other argument against disclosure.

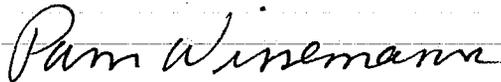
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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.oag.state.tx.us/open/index_orl.php, 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

¹Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex. Gen. Laws 2517, 2591.

information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Pamela Wissemann
Assistant Attorney General
Open Records Division

PFW/jb

Ref: ID# 344066

Enc. Submitted documents

c: Requestor
(w/o enclosures)