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City of Galveston



Legal Department / P. O. Box 779 / Galveston, Texas 77553-0779 / (409) 766-2152

CERTIFIED - RETURN RECEIPT REQUESTED
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March 19, 1991

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Opinion Committee

Ms. Susan Garrison
Acting Chairman
Texas Attorney General-Open Records Committee
5th Floor, Supreme Court Building
P. O. Box 12548
Austin, Texas 78711-2548

RE: Request for Open Records Decision

Dear Ms. Garrison:

Enclosed please find an Open Records request letter, dated March 1, 1991, written by Plaintiff's attorney, Larry M. Tylka of Schechter & Eisenman, attorneys-at-law, who seeks four (4) basic types of information that he hopes to find in Galveston Police Department investigation files dealing with the shooting of a seven year old child by a nine year old child, which was investigated by the Galveston Police Department.

I believe that none of the requested information contained in G.P.D. records dealing with the shooting by the nine year old child is available to Mr. Tylka under the Open Records Act. I think that the information is privileged from disclosure by virtue of Section 3(a)(1) of the Open Records Act because it is information deemed confidential by law, in Section 51.14 of the Family Code, as well as by Section 3(a)(8), of the Open Records Act, the Law Enforcement Exception.

According to Section 51.02 of the Family Code, a child is defined as a person who is ten years of age, or older, and under 17 years of age. According to Section 51.14 (Files and Records) of the Family Code, 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 are open to inspection only by specifically authorized people. Likewise, under Sections 51.14(c) and (d), the Law Enforcement Files and Records of Children are not open to public inspection, nor may their contents be disclosed to the public.

The Open Records inquiry is as follows: "Since the subject of the police investigation in this case was a nine year old child, and does not meet the definition of a child for the purposes of those provisions of the Family Code dealing with delinquent children, is any information from the Galveston Police Department investigation of this case required to be made public to the requestor?"

I think that the same policy considerations protecting ten to 17 year old children would apply to prevent any disclosure to the requestor of any information found in the Galveston Police Department records dealing with this case, to include even technical information, such as the name of the manufacturer of the weapon, and the serial number of the weapon. Thus, pending your decision, I am refusing to provide Mr. Tylka with any of the information from the Galveston Police Department files.

All police records dealing with the above investigation are being mailed to you under separate cover by Certified Mail - Return Receipt Requested.

Yours very truly,

Michael F. Miller

Michael F. Miller
Assistant City Attorney

MFM/mt

cc: Mr. Larry M. Tylka
Schechter & Eisenman
Attorneys-at-Law
1826 Sealy
Galveston, Texas 77550