

Juvenile Law Case Summaries

By
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A law enforcement incident report involving conduct by a 17 year old is subject to disclosure under the adult, not juvenile, provisions of the Public Information Act [OR2001-0197] (01-4-06).

On January 18, 2001, the Attorney General stated in an Public Information Act opinion that a police incident report involving a 17 year old is subject to disclosure under adult rules, which means that basic "front page" information must be disclosed.

¶ 01-4-06. Attorney General Opinion No. OR2001-0197, 2001 WL 995616 (1/18/01) [*Texas Juvenile Law* (5th Edition 2000)].

Ms. Lillian Guillen Graham
Assistant City Attorney
Office of the City Attorney
City of Mesquite
P.O. Box 850137
Mesquite, Texas 75185-0137

Dear Ms. Graham:

You have asked whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 143352.

The City of Mesquite (the "city") received a request for an arrest report and any related documents pertaining to an individual. You claim that the requested information is excepted from disclosure under sections 552.101, 552.103 and 552.108 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." Section 552.101 encompasses confidentiality provisions. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007 of the Family Code. However, section 58.007 is inapplicable because the incident at issue does not involve a "child" as defined by section 51.02 of the Family Code. A "child" is a person who is:

(A) ten years of age or older and under 17 years of age; or

(B) seventeen years of age or older and under 18 years of age who is alleged or found to have engaged in delinquent conduct or conduct indicating a need for supervision as a result of acts committed before becoming 17 years of age.

Fam. Code § 51.02(1). Here, the incident involves arrestees who were seventeen and eighteen years of age when the conduct occurred. Therefore, the city may not withhold the information under section 58.007 of the Family Code.

Section 552.108 excepts from disclosure:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime... if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]

Gov't Code § 552.108(a). In this instance, you state that the underlying criminal charges resulting from the arrest remain open and are pending. Therefore, you may withhold most of the requested information pursuant to section 552.108(a)(1).

Section 552.108 does not, however, except from required public disclosure "basic information about an arrested person, an arrest, or a crime." Gov't Code § 552.108(c). Thus, you must release the types of basic information listed in *Houston Chronicle Publishing Company v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976). We note that you have the discretion to release all or part of the remaining information that is not otherwise confidential by law. Gov't Code § 552.007. In light of our conclusion under section 552.108(a), we need not address the applicability of section 552.103. [FN1]

[FN1]. Generally, basic information may not be withheld from public disclosure under section 552.103. Open Records Decision No. 597 (1991).

However, please note that the submitted documents include an arrest warrant and an affidavit for arrest warrant. If the arrest warrant and affidavit for arrest warrant have been filed with a court, then you must release them. Information filed with a court is generally a matter of public record and may not be withheld from disclosure. Gov't Code § 552.022(a)(17); *Star-Telegram, Inc. v. Walker*, 834 S.W.2d 54 (Tex. 1992). Otherwise, the documents are excepted under section 552.108(a)(1).

[Balance of letter dealing with disclosure and appeal procedures is omitted.]

Sincerely,

June B. Harden
Assistant Attorney General
Open Records Division

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