

Juvenile Law Case Summaries

By

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Juvenile probation department records come within judiciary exception to Public Information Act; juvenile's parents not entitled to law enforcement juvenile information about child [OR2001-0528] (01-4-08).

On February 12, 2001, the Attorney General ruled in a Public Information Act opinion that all files maintained by a juvenile probation department are excepted from required disclosure by the judiciary exception to the Act. The AG also ruled that a juvenile and his or her parents have no special rights to law enforcement information concerning the juvenile.

¶ 01-4-08. Attorney General Opinion No. OR2001-0528, 2001 WL 996330 (2/12/01) [*Texas Juvenile Law* (5th Edition 2000)].

Mr. J. Michael Criswell
County Attorney
Swisher County
Courthouse
Tulia, Texas 79088

Dear Mr. Criswell:

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# 144102.

The Swisher County Attorney (the "county") and the county Juvenile Probation Department (the "department") each received a request for information pertaining to a named juvenile for the period from January 1 through December 1999. You have submitted for our review representative samples of information that is responsive to the requests. You assert that the requested information is excepted from disclosure under section 552.101 of the Government Code in conjunction with chapter 58 of the Family Code. We have considered the exception you claim and reviewed the submitted information.

At the outset, we note that the information pertaining to the named juvenile that is held by the department is not subject to the Act. Section 552.003(1)(B) of the Government Code excludes the judiciary from the Act. In Open Records Decision No. 646 (1996), this office determined that specific records regarding individuals on probation and subject to the direct supervision of a court that are held by a community supervision and corrections department fall within the Act's judiciary exclusion because such records are held on behalf of the judiciary. Accordingly, the Act does not require release of any of the responsive information held by the department. We next address the claimed exception for the information held by the county.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 58.007 of the Family Code, regarding juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997, provides in relevant part as follows:

(b) Except as provided by Article 15.27, Code of Criminal Procedure, the records and files of a juvenile court, a clerk of court, a juvenile probation department, or a prosecuting attorney relating to a child

who is a party to a proceeding under this title are open to inspection only by:

- (1) the judge, probation officers, and professional staff or consultants of the juvenile court;
- (2) a juvenile justice agency as that term is defined by Section 58.101;
- (3) an attorney for a party to the proceeding;
- (4) a public or private agency or institution providing supervision of the child by arrangement of the juvenile court, or having custody of the child under juvenile court order; or
- (5) with leave of the juvenile court, any other person, agency, or institution having a legitimate interest in the proceeding or the work of the court.

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

- (1) if maintained on paper or microfilm, kept separate from adult files and records;
- (2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and
- (3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

The information at issue involves juvenile conduct that occurred after September 1, 1997. It does not appear that any of the exceptions in section 58.007 apply; therefore, we find that the requested information is confidential pursuant to section 58.007 of the Family Code. You also appear to inquire whether the requestors, the named juvenile and a parent of the juvenile, have a special right of access to the information under section 552.023 of the Government Code. The relevant language of section 552.023 states:

(a) A person or person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and is protected from public disclosure by laws intended to protect that person's privacy interests.

We do not believe that section 58.007 of the Family Code is intended solely to protect the privacy interests of the subject juvenile. Moreover, the information at issue is governed by section 58.007 of the Family Code, and none of the access provisions of section 58.007 provide for release of the information in this instance. Accordingly, you must withhold the information

from disclosure under section 552.101 of the Government Code.

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

Sincerely,

Michael Garbarino
Assistant Attorney General
Open Records Division