

Juvenile Law Case Summaries

By
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Police offense report retains juvenile confidential status even after the juvenile is certified to criminal court and convicted as an adult [OR2001-0779] (01-4-09).

On March 1, 2001, the Attorney General ruled in a Public Information Act request that an incident or offense report concerning a juvenile offense retains its non-public status even after the juvenile is certified to criminal court and convicted as an adult.

¶ 01-4-09. Attorney General Opinion No. OR2001-0779, 2001 WL 996575 (3/1/01) [*Texas Juvenile Law* (5th Edition 2000)].

Mr. Stephen R. Alcorn
Assistant City Attorney
City of Grand Prairie
P.O. Box 534045
Grand Prairie, Texas 75053

Dear Mr. Alcorn:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID # 144514.

The Grand Prairie Police Department (the "department") received two written requests from the same individual for two categories of information. The first request seeks all records pertaining to charges of official oppression, civil rights violations, and sexual assault allegedly committed by either inmates of the city jail, jail staff, or peace officers. The second request is for information pertaining to a specified murder investigation.

[Discussion of the first of the two requests is omitted. For the disclosure of internal affairs investigations, see 01-4-07.]

The second request seeks all records pertaining to the murder of a named individual. You inform us that the related criminal prosecution concerned two defendants: an adult, who had been tried and convicted prior to the department's receipt of the records request, and an individual who was a juvenile at the time of the offense and had not yet been tried. In a telephone conversation on February 15, 2001, you informed a member of our staff that the juvenile had been certified as an adult under section 54.02 of the Family Code and has been convicted of the murder since the date you requested a decision from this office. You contend that the records at issue are excepted from public disclosure pursuant to sections 552.103 and 552.108 of the Government Code.

Although the attorney general will not ordinarily raise an exception that might apply but that the governmental body has failed to claim, see Open Records Decision No. 325 at 1 (1982), we will raise section 552.101 of the Government Code, which protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," because the release of confidential information could impair the rights of third parties and because the improper release of confidential information constitutes a misdemeanor. See Government Code § 552.352. Section 58.007(c) of the Family Code provides in pertinent part:

(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.

Subsection (d), referenced above, pertains to the transfer of Texas Youth Commission records to a central state or federal depository for adult records and is not applicable here. Because the records pertaining to the murder investigation concern a "child" for purposes of the Family Code, we conclude that records of the murder investigation must be withheld in their entirety pursuant to section 58.007(c) of the Family Code. See Fam. Code § 51.02(2) (defining "child").

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

Sincerely,

Michael J. Burns
Assistant Attorney General
Open Records Division

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