

Juvenile Law Case Summaries

By
Robert O. Dawson
Bryant Smith Chair in Law
University of Texas School of Law

[2001 Case Summaries](#) [2000 Case Summaries](#) [1999 Case Summaries](#)

Law enforcement incident report identifying a juvenile as a witness or complainant is not confidential under juvenile law [OR2001-1088] (01-4-11).

On March 20, 2001, the Attorney General ruled in a Public Information Act opinion that a police incident report that names an adult suspect but also names a juvenile witness and complainant is not confidential under the juvenile records provision.

¶ 01-4-11. Attorney General Opinion No. OR2001-1088, 2001 WL 996952 (3/20/01) [*Texas Juvenile Law* (5th Edition 2000)].

Mr. G. Chadwick Weaver
First Assistant City Attorney
City of Midland
P.O. Box 1152
Midland, Texas 79702-1152

Dear Mr. Weaver:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID # 145166.

The Midland Police Department (the "department") received a request for an accident/incident report involving the requestor's minor son. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.108(a)(1) 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 here because the incident at issue does not involve a suspect or offender who is 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). Section 58.007 does not apply where the information in question involves only a juvenile complainant or witness and not a juvenile suspect or offender. See Fam. Code § 51.04(a)(Title 3 covers cases involving delinquent conduct or conduct indicating need for supervision engaged in by child). Here, while the complainant and a witness are juveniles, the individual identified as the suspect in the submitted document was seventeen years of age at the time of the incident. Therefore, the department 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 investigation of the crime that forms the basis of the information contained in the submitted document remains pending. Therefore, the department may withhold much 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, the department 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.

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

Sincerely,

Karen A. Eckerle
Assistant Attorney General
Open Records Division

[2001 Case Summaries](#)

[2000 Case Summaries](#)

[1999 Case Summaries](#)