

Juvenile Law Case Summaries

By
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Tape of 9-1-1 call about school shooting is excepted from disclosure under the Public Information Act as juvenile information although the juvenile is dead [OR2001-3350] (01-4-15).

On August 1, 2001, the Attorney General ruled in a Public Information Act opinion that the tape of a 9-1-1 call is excepted from disclosure as juvenile information although the juvenile in question is dead.

¶ 01-4-15. Attorney General Opinion No. OR2001-3350, 2001 WL 961188 (8/1/01) [*Texas Juvenile Law* (5th Edition 2000)].

Mr. Joe F. Grubbs
District Attorney
Ellis County
1201 North Highway 77, Suite B
Waxahachie, Texas 75165-5140

Dear Mr. Grubbs:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID # 150152.

The Ellis County Sheriff's Department (the "sheriff") received a request for "any 911 tapes or dash cam recordings of the Ennis High School Shooting that occurred on May 15, 2001." You inform us that the sheriff does not have any dash cam recordings, but claim that a responsive 911 tape of the initial report of the shooting is excepted from disclosure under section 552.101 of the Government Code. Concerning any dash cam recordings, the Public Information Act does not require a governmental body to disclose information that did not exist at the time the request was received. *Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); *Open Records Decision No. 452 at 3* (1986). With regard to the submitted 911 tape, we have considered the exception you claim and reviewed the submitted information.

Initially, we address your assertion that a tape of a 911 call relating to the same incident at issue here has been released to the public. Section 552.007 of the Government Code prohibits a governmental body from selectively disclosing information that is not confidential by law but that a governmental body may withhold under a discretionary exception to public disclosure. However, in this case, as you inform us that the sheriff has not released the 911 tape in his possession, and as you raise a statute that makes information confidential by law, we will address the applicability of your raised exception to the submitted information.

Section 552.101 encompasses confidentiality provisions such as Family Code section 58.007. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. The relevant language of section 58.007(c) reads as follows:

(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. Further, we do not believe that section 58.007 is intended solely to protect the privacy interests of the subject juvenile. Therefore, we do not believe that the fact that the subject juvenile is now deceased takes the information at issue outside the ambit of section 58.007. Accordingly, the submitted 911 tape is confidential under section 58.007 of the Family Code and must thus be withheld from disclosure under section 552.101 of the Government Code.

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

Sincerely,

Michael A. Pearle
Assistant Attorney General
Open Records Division

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