

Juvenile Law Case Summaries

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

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Juvenile records maintained by a municipal court prosecutor are excepted from disclosure [OR2001-4231] (01-4-25).

On September 20, 2001, the Attorney General ruled in an Public Information Act opinion that juvenile records created by a municipal court but maintained by the city attorney are not public records because they are made confidential by Family Code Section 58.007(b).

01-4-25. Attorney General Opinion No. OR2001-4231, 2001 WL 1113089 (9/20/01) [Texas Juvenile Law (5th Edition 2000)].

Mr. Donald R. Postell
City Attorney
City of Grand Prairie
P.O. Box 534045
Grand Prairie, Texas 75053

Dear Mr. Postell:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID # 152192.

The City of Grand Prairie Municipal Court Prosecutor (the "prosecutor") received a request for a copy of the juvenile docket for Monday, July 9, and any minor curfew tickets that were set for hearing on that date. You submit that the information is confidential pursuant to section 58.007 of the Family Code. We have considered your arguments and reviewed the submitted information.

You inform us that the juvenile court records were generated and maintained by the municipal court. We understand, however, that the prosecutor maintained the requested records at the time of receipt of the request.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 encompasses confidentiality provisions such as section 58.007 of the Family Code. Section 58.007(b) provides 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 in the work of the court.

Fam. Code § 58.007(b). You state that the information at issue was generated and maintained as part of a criminal proceeding involving a juvenile. It does not appear that any of the exceptions to disclosure under section 58.007(b) of the Family Code apply in this instance. Therefore, we conclude that you must withhold the information at issue

from disclosure pursuant to section 552.101 of the Government Code in conjunction with section 58.007(b) of the Family Code.

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

Sincerely,

J. Steven Bohl
Assistant Attorney General
Open Records Division

*[Editor's Comment: Family Code Section 58.007(a) provides, "This section does not apply to a record or file relating to a child that is *** (2) maintained by a municipal or justice court." Although the AG did not mention this provision, under the AG's theory that juvenile records created by a municipal court but in the possession of the prosecutor are protected as prosecutor records under 58.007(b), the language in (a) would not apply. There is, however, substantial doubt that (b) applies to prosecutor records in municipal or justice court since they are not records "relating to a child who is a party to a proceeding under this title." However, the litigation exception to the Public Information Act may apply to such records.]*

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