

Juvenile Law Case Summaries

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

Attorney General says that parent who filed a runaway report with police is not entitled to see it [OR2001-4486] (01-4-30).

On October 5, 2001, the Attorney General in a Public Information Act opinion said that a parent who filed runaway reports on her son is not entitled to see those reports that were filed before January 1, 1996.

01-4-30. Attorney General Opinion No. OR2001-4486, 2001 WL 1181360 (10/5/01) [Texas Juvenile Law (5th Edition 2000)].

Mr. Steven D. Monte Assistant City Attorney Criminal Law and Police Division City of Dallas 2014 Main Street, Room 501 Dallas, Texas 75201

Dear Mr. Monte:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID # 152956.

The Dallas Police Department (the "department") received a request for all runaway reports that the requestor has filed on her son and information concerning his threat to kill the requestor. You claim that some of the runaway reports are excepted from disclosure under section 58.007 of the Family Code. To the extent that information concerning the threat to kill the requestor exists, we assume the department has released this information. Gov't Code §§ 552.301,.302. We have considered the exception you claim and reviewed the submitted representative sample of information.

We first note that the department failed to request a ruling from this office within the ten business day period required in section 552.301 of the Government Code. Subsections 552.301(a) and (b) provide:

(a) A governmental body that receives a written request for information that it wishes to withhold from public disclosure and that it considers to be within one of the [act's] exceptions... must ask for a decision from the attorney general about whether the information is within that exception if there has not been a previous determination about whether the information falls within one of the exceptions. (b) The governmental body must ask for the attorney general's decision and state the exceptions that apply within a reasonable time but not later than the 10th business day after the date of receiving the written request.

The department received the request on July 16, 2001, but did not ask this office for a decision until August 2, 2001. Because the request for a decision was not timely submitted, the requested information is presumed to be public information. Gov't Code § 552.302.

In order to overcome the presumption that the requested information is public information, a governmental body must provide compelling reasons why the information should not be disclosed. *Id.*; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ); see *Open Records Decision No. 630 (1994)*. Compelling reasons exist when the information is made confidential by law or affects the interest of a third party. *Open Records Decision No. 630 at 3 (1994)*. In this instance, you assert that the requested information is excepted from disclosure under section 58.007 of the Family Code. Here, the application of section 552.101 in conjunction with section 58.007 of the

Family Code presents a compelling reason to overcome the presumption of openness.

Section 552.101 encompasses confidentiality provisions such as section 58.007 of the Family Code. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. You have submitted a report pertaining to juvenile conduct that occurred in 1995. Therefore, section 58.007 does not apply. However, the information is confidential under section 51.14(d) of the Family Code.

Prior to its repeal by the Seventy-fourth Legislature, section 51.14(d) of the Family Code provided for the confidentiality of juvenile law enforcement records. Law enforcement records pertaining to conduct occurring before January 1, 1996 are governed by the former section 51.14(d), which was continued in effect for that purpose. Act of May 27, 1995, 74 superth Leg., R.S., ch. 262, § 100, 1995 Tex. Gen. Laws 2157, 2591 (Vernon). The records at issue concern juvenile conduct that occurred prior to January 1, 1996. Therefore, the records are confidential under the former section 51.14(d) of the Family Code and must be withheld from disclosure pursuant to section 552.101 of the Government Code.

Lastly, you state that most of the reports occurred between January 1, 1996, and September 1, 1997. This office has concluded that section 58.007 of the Family Code, as enacted by the Seventy-fourth Legislature, does not make confidential juvenile law enforcement records relating to conduct that occurred on or after January 1, 1996. Open Records Decision No. 644 (1996). The Seventy-fifth Legislature, however, amended section 58.007 to once again make juvenile law enforcement records confidential effective September 1, 1997. Act of June 2, 1997, 75th Leg., R.S., ch. 1086, 1997 Tex. Sess. Law Serv. 4179, 4187 (Vernon). It chose not to make this most recent amendment retroactive in application. Consequently, law enforcement records pertaining to juvenile conduct that occurred between January 1, 1996 and September 1, 1997, are not subject to the confidentiality provisions of either the former section 51.14(d) or the current section 58.007 of the Family Code. Because you have asserted no exceptions for these reports, we assume you have released them. Gov't Code §§ 552.301,.302.

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

Sincerely,

Yen-Ha Le
Assistant Attorney General
Open Records Division

[2001 Case Summaries](#)

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