

## Juvenile Law Case Summaries

By  
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***Law enforcement report about conduct by a 17-year-old suspect is not confidential under the Family Code [OR2001-4680] (01-4-36).***

On October 16, 2001, the Attorney General stated in a Public Information Act opinion that an incident report dealing with conduct by a 17-year-old is not confidential under the Family Code because the suspect is not a juvenile.

01-4-36. Attorney General Opinion No. OR2001-4680, 2001 WL 1242077 (10/16/01) [Texas Juvenile Law (5th Ed. 2000)].

Mr. Miles K. Risley Senior Assistant City Attorney Legal Department City of Victoria P.O. Box 1758 Victoria, Texas 77902-1758

Dear Mr. Risley:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID # 153467.

The City of Victoria Police Department (the "department") received a request for information regarding case #1014538. You state that you have released some of the requested information to the requestor. You claim, however, that the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You contend that the submitted information is excepted under section 552.101 in conjunction with section 58.007 of the Family Code. 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 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 of the Family Code. 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.

Fam. Code § 58.007 (c). For the purposes of section 58.007, 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). Because the offender identified in the submitted information was seventeen years old at the

time of the alleged offense, and therefore was not a "child" as defined by section 51.02, section 58.007(c) is inapplicable to the submitted information. We note that 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); see also Fam. Code § 51.03 (defining "delinquent conduct").

You also contend that the submitted information is excepted under section 552.108 of the Government Code. Section 552.108(a) excepts from disclosure "[i]nformation 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." Generally, a governmental body claiming section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. See Gov't Code §§ 552.108(a)(1), (b)(1), .301(e)(1)(a); see also Ex parte Pruitt, 551 S.W.2d 706 (Tex. 1977). You state that the submitted information relates to a pending criminal investigation. Based upon this representation, we conclude that the release of the submitted information would interfere with the detection, investigation, or prosecution of crime. See *Houston Chronicle Publ'g Co. 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) (court delineates law enforcement interests that are present in active cases).

We note, however, that information normally found on the front page of an offense report is generally considered public. See generally Gov't Code § 552.108(c); *Houston Chronicle Publ'g Co. 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); *Open Records Decision No. 127* (1976). Thus, you must release the types of information that are considered to be front page offense report information, even if this information is not actually located on the front page of the offense report. However, you may withhold the remaining submitted information pursuant to section 552.108 of the Government Code. Although section 552.108(a)(1) authorizes you to withhold the remaining information from disclosure, you may choose to release all or part of the information at issue that is not otherwise confidential by law. See 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

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