

Juvenile Law Case Summaries

By
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Curfew records are not public under the juvenile confidentiality provision of and judicial exception to the Public Information Act [OR2001-4901] (01-4-47).

On October 26, 2001, the Attorney General ruled in a Public Information Act opinion that records of juvenile curfew cases are not public. Law enforcement records of curfew violations are confidential under the Family Code juvenile confidentiality provision and judicial records in Municipal Court of the same violations come within the judicial exception to the Public Information Act.

01-4-47. Attorney General No. OR2001-4901, 2001 WL 1347434 (10/26/01) [Texas Juvenile Law (5th Edition 2000)].

Mr. Stephen R. Alcorn Assistant City Attorney City of Grand Prairie P.O. Box 534045 Grand Prairie, Texas 75053

Dear Mr. Alcorn:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID # 154017.

The City of Grand Prairie (the "city") received a request for information regarding juvenile curfew violations from November 1997 through August 8, 2001, including names, fines, citations, and judicial disposition. You claim that the submitted information constitutes judicial files. You also claim that the submitted information is excepted under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. We have considered your exception and reviewed the submitted representative samples of information.

First, you contend that the submitted law enforcement and municipal court files constitute "judicial files" which are not subject to the Public Information Act (the "Act"). The Act applies to information that is "collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business by a governmental body." Gov't Code 552.002(a)(1). However, a "governmental body" under the Act "does not include the judiciary." Gov't Code 552.003(1)(B). Information that is "collected, assembled or maintained by... the judiciary" is not subject to the Act but is "governed by rules adopted by the Supreme Court of Texas or by other applicable laws and rules." Gov't Code 552.0035(a); see also Tex. Sup. Ct. R. 12.

You explain that the law enforcement records are maintained by the police department, but you do not explain who maintains the municipal court files. If the municipal court files are maintained solely by the municipal court, then the files are not subject to the Act. Attorney General Opinion DM-166 (1992).

If, on the other hand, the municipal court files are also maintained by a governmental body, such as another city department or law enforcement agency, then the information is subject to the Act. See Open Records Decision No. 317 (1982) (fact that information originally generated by another entity not relevant to determination of whether it is covered by Public Information Act while possessed by governmental body). We will, therefore, consider your claimed exceptions for the submitted documents.

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 provides in relevant part:

(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. (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(b)-(c). The submitted information pertains to curfew violations by juveniles. It does not appear that any of the exceptions in section 58.007 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(c) of the Family Code.

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

Sincerely,

Jennifer Bialek
Assistant Attorney General Open Records Division

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