

Juvenile Law Case Summaries

By
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Motor vehicle accident report involving a juvenile must be disclosed under the Public Information Act [OR2001-5578] (02-1-02).

On November 30, 2001, the Attorney General ruled in a Public Information Act opinion that a motor vehicle accident report involving a juvenile must be disclosed upon request under a Transportation Code amendment enacted in 2001.

02-1-02. Attorney General Opinion No. OR2001-5578, 2001 WL 1529308 (11/30/01)

Ms. Cynthia B. Garcia
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street
Fort Worth, Texas 76102

Dear Ms. Garcia:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID # 155472.

The Fort Worth Police Department (the "department") received a written request for the following information:

A copy of all video, audio and any reports or memorandums [sic] of any nature generated regarding a police chase that occurred on September 9, 2001 involving a 15 yo [sic] male. The incident occurred at the approximate location of 8th Avenue and Rosedale Street.

You contend that the requested information is excepted from required public disclosure pursuant to sections 552.101 and 552.108 of the Government Code.

We note at the outset that among the documents you seek to withhold is an accident report form that appears to have been completed pursuant to chapter 550 of the Transportation Code. See Transp. Code § 550.064 (officer's accident report). Section 550.065(b) of the Transportation Code states that except as provided by subsection (c), accident reports are privileged and confidential. The Seventy-seventh Legislature amended section 550.065(c)(4) to provide for release of accident reports to a person who provides two of the following three pieces of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident. See Act of May 22, 2001, 77th Leg., R.S., H.B. 1544, § 5 (to be codified at Transp. Code § 550.065(c)(4)). Under this provision, the Department of Public Safety or another governmental entity is required to release a copy of an accident report to a person who provides the agency with two or more pieces of information specified by the statute. *Id.* In this instance, the requestor has provided the department with two of the three pieces of information. Consequently, the department must release the accident report in accordance with section 550.065(b) of the Transportation Code.

We now address whether the remaining requested documents are excepted from public disclosure. You contend that the records are made confidential under section 58.106 of the Family Code and thus must be withheld from the public pursuant to section 552.101 of the Government Code. Section 552.101 of the Government Code protects

"information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Subchapter B of chapter 58 of the Family Code, which contains section 58.106, pertains to the administration of the Juvenile Justice Information System by the Texas Department of Public Safety. Because the records at issue were not requested from the Department of Public Safety, we conclude that section 58.106 is inapplicable here.

On the other hand, juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997, are made 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.

The information that you seek to withhold pertains to an instance of alleged juvenile conduct that occurred after September 1, 1997. Accordingly, we conclude that the information at issue must be withheld in its entirety pursuant to section 58.007(c) of the Family Code in conjunction with section 552.101 of the Government Code, except as discussed above.

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

Sincerely,

Cindy Nettles
Assistant Attorney General
Open Records Division

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