



Office of the Attorney General
State of Texas

June 13, 1997

DAN MORALES
ATTORNEY GENERAL

Mr. James Showen
Senior Assistant City Attorney
City Hall, 2nd Floor
P.O. Box 2039
Tyler, Texas 75710

OR97-1383

Dear Mr. Showen:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 106688.

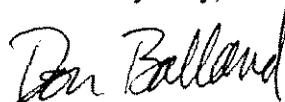
The Tyler Municipal Court received a request for all violations committed at the Outback Steakhouse on January 17, 1996. You contend that the requested information is not subject to the Open Records Act because the information consists of records of the judiciary. In the alternative, you claim that the records are excepted from disclosure by section 552.101 of the Government Code.

As a threshold issue, you argue that the requested records need not be disclosed because they are records of the judiciary. The information includes municipal court citations. The Open Records Act does not apply to records of the judiciary. Gov't Code § 552.003(B). In this instance, however, we are unable to determine whether these are records held by the judiciary or whether they are records filed with the municipal court and also maintained by another governmental body. You do not indicate whether you seek a decision on behalf of the municipal court or city. If the requested records are genuinely records maintained solely by the municipal court, you need not release them under the Open Records Act. Attorney General Opinion DM-166 (1992). As records of the judiciary, however, the information may be public by other sources of law. Attorney General Opinions DM-166 (1992) at 2-3 (public has general right to inspect and copy judicial records), H-826 (1976); Open Records Decision No. 25 (1974); *see Star Telegram, Inc. v. Walker*, 834 S.W.2d 54, 57 (Tex. 1992) (documents filed with courts are generally considered public and must be released). Additionally, the records may be subject to disclosure under statutory law governing municipal courts. *See* Gov't Code § 29.007(d)(4) (complaints filed with municipal court clerk); *id.* § 29.007(f) (municipal court clerks shall perform duties prescribed by law for county court clerk); Local Gov't Code § 191.006 (records belonging to office of county clerk shall be open to public unless access restricted by law or court order).

If, on the other hand, the records are maintained by a governmental body other than the municipal court, such as a city law enforcement agency, and were merely filed with the court, they are public information under the Open Records Act and are subject to disclosure. You contend that if the records are subject to the act, they are excepted from disclosure because they involve the criminal history of juveniles. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. This office recently addressed whether juvenile records maintained by a law enforcement agency are confidential under section 58.007 of the Family Code. Open Records Decision No. 644 (1996). We noted that while section 58.007 restricts disclosure for records and files of a juvenile court, a clerk of court, a juvenile probation department, and a prosecuting attorney relating to a child, it does not contain a confidentiality provision that restricts access to juvenile law enforcement records and files in the hands of a law enforcement agency. Although section 58.007(e) provides that law enforcement records concerning juveniles "may" be inspected by a juvenile or criminal justice agency, the provision contains no restriction that limits inspection only to these two types of agencies. We concluded that records of juvenile offenders concerning conduct occurring on or after January 1, 1996, that are held by law enforcement agencies are not made confidential under section 58.007 of the Family Code. *Id.* at 4. Thus, if the records are held by a law enforcement agency, you may not withhold any of the requested documents under of section 58.007 of the Family Code.¹

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/ch

Ref: ID# 106688

Enclosures: Submitted documents; Open Records Decision No. 644 (1996)

¹We note, however, that other statutes and exceptions to disclosure may protect certain information concerning juvenile offenders. Sections 58.001 and 58.003 of the Family Code provide for the destruction or sealing of juvenile records under certain conditions. Section 58.106(a) protects certain information maintained in the Department of Public Safety's juvenile justice information system.

cc: Mr. Jeffrey S. Walston
P.O. Box 1925
Whitehouse, Texas 75791
(w/o enclosures)

