



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 7, 2009

Mr. C. Patrick Phillips  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street, 3rd Floor  
Fort Worth, Texas 76102

OR2009-17263

Dear Mr. Phillips:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 363357 (PIR No. 5740-09).

The Fort Worth Police Department (the "department") received a request for a specified incident report and related citation. You claim the submitted incident report is excepted from disclosure under sections 552.101, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note you have not submitted the requested citation. To the extent information responsive to this aspect of the request existed on the date the department received this request, we assume you have released it. If you have not released any such information, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information made confidential by other statutes, such as section 58.007 of the Family Code, which makes confidential juvenile law

enforcement records relating to conduct that occurred on or after September 1, 1997. The relevant language of section 58.007 provides:

(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 Subchapters B, D, and E.

Fam. Code § 58.007(c). For purposes of section 58.007, "child" means a person who is ten years of age or older and under seventeen years of age. *See id.* § 51.02(2). The submitted incident report pertains to, among other things, a fifteen year old individual arrested for shoplifting after September 1, 1997. Thus, we find this report involves juvenile delinquent conduct. *See id.* § 51.03(a) (defining "juvenile delinquent conduct" for the purposes of section 58.007). Upon review of your arguments and the submitted information, we conclude the submitted incident report is generally confidential pursuant to section 58.007(c) of the Family Code.

Section 58.007(e) of the Family Code, however, provides that "[l]aw enforcement records and files concerning a child may be inspected or copied by a juvenile justice agency as that term is defined by Section 58.101 [of the Family Code] [or] a criminal justice agency as that term is defined by Section 411.082, Government Code[.]" *Id.* § 58.007(e). Section 411.082 of the Government Code defines a "criminal justice agency" as including "a federal or state agency that is engaged in the administration of criminal justice under a statute or executive order and that allocates a substantial portion of its annual budget to the administration of criminal justice." Gov't Code § 411.082(3)(A).

In this instance, the requestor is a representative of the United States District Court Probation and Pretrial Services Office of the Northern District of Texas (the "probation office"). The requestor states the probation office "is a federal agency engaged in the administration of criminal justice." Thus, we find the probation office is a criminal justice agency for purposes of section 58.007(e). Accordingly, the requestor has a right to inspect the submitted incident report under section 58.007(e) of the Family Code, and the report may not be withheld from

this requestor under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.<sup>1</sup>

You contend, however, Texas driver's license numbers in the submitted report are excepted from disclosure under section 552.130 of the Government Code, which excepts from disclosure information relating to a Texas motor vehicle driver's license and information relating to a Texas motor vehicle title or registration. Gov't Code § 552.130(1), (2). Upon review, we agree the Texas driver's license numbers you have marked are generally excepted from disclosure under section 552.130 of the Government Code.

As previously noted, the requestor has a statutory right to inspect the submitted information pursuant to section 58.007(e) of the Family Code. Therefore, we must address the conflict between the access provided under section 58.007(e) of the Family Code and the confidentiality provided under section 552.130 of the Government Code. Where information falls within both a general and a specific provision of law, the specific provision prevails over the general. *See Horizon/CMS Healthcare Corp. v. Auld*, 34 S.W.3d 887, 901 (Tex. 2000) ("more specific statute controls over the more general"); *Cuellar v. State*, 521 S.W.2d 277 (Tex. Crim. App. 1975) (under well-established rule of statutory construction, specific statutory provisions prevail over general ones); Open Records Decision Nos. 598 (1991), 583 (1990), 451 (1986). In this instance, section 58.007(e) generally applies to all juvenile law enforcement records, while section 552.130 specifically protects Texas motor vehicle record information. Although a specific statutory right of access prevails over general exceptions to disclosure under the Act, because section 552.130 has its own access provisions, we conclude section 552.130 is not a general exception under the Act. Thus, we find the confidentiality provided by section 552.130 is more specific than the general right of access provided by section 58.007(e). Accordingly, the department must withhold the marked Texas driver's license numbers under section 552.130 of the Government Code.

You also seek to withhold a social security number under section 552.147 of the Government Code. *See* Gov't Code § 552.147(b) (authorizing a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act). However, this section is a general exception to disclosure under the Act. As previously noted, a specific statutory right of access prevails over general exceptions to disclosure under the Act. *See* Open Records Decision Nos. 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information), 451 at 4 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Act). Because the requestor, in this instance, has a statutory right of access to the submitted information, the department may not withhold the social security number you have marked under section 552.147 of the Government Code.

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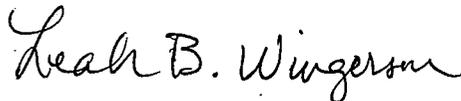
<sup>1</sup>Because the submitted incident report is generally confidential with respect to the public, the department must again seek a decision from this office if it receives a request for this information from a different requestor.

In summary, the department must withhold the marked Texas driver's license numbers under section 552.130 of the Government Code. The remaining information must be released to this requestor pursuant to section 552.101 of the Government Code in conjunction with section 58.007(e) of the Family Code.<sup>2</sup>

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Leah B. Wingerson  
Assistant Attorney General  
Open Records Division

LBW/dls

Ref: ID# 363357

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>Because this information is generally confidential with respect to the general public, if the department receives another request for this particular information from a different requestor, the department should again seek a decision from this office.