



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 1, 2013

Mr. Bernard W. Ammerman
County and District Attorney
Willacy County and District Attorney's Office
546 West Hidalgo Avenue, 2nd Floor
Raymondville, Texas 78580

OR2013-05178

Dear Mr. Ammerman:

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# 485559.

The Willacy County and District Attorney's Office (the "district attorney's office") received a request for information pertaining to a specified investigation. The district attorney's office claims the requested information is excepted from disclosure under sections 552.101, 552.103, 552.108, and 552.111 of the Government Code. We have considered the claimed exceptions and reviewed the submitted representative sample of information.¹

Initially, we note some of the submitted information appears to be records of a grand jury. The judiciary is expressly excluded from the requirements of the Act. Gov't Code § 552.003(1)(B). This office has determined that a grand jury, for purposes of the Act, is a part of the judiciary, and therefore not subject to the Act. Open Records Decision No. 411 (1984). Further, records kept by a governmental body that is acting as an agent for a grand jury are considered records in the constructive possession of the grand jury, and therefore are also not subject to the Act. Open Records Decisions Nos. 513 (1988), 411 (1984), 398 (1983). *But see* Open Records Decision No. 513 at 4 (1988) (defining limits of judiciary exclusion). Thus, to the extent the district attorney's office holds the information at issue as agent of the grand jury, the information consists of records of the judiciary not subject to disclosure under the Act. To the extent the submitted

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

information does not consist of records of the judiciary, we will address your exceptions to disclosure.

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 section encompasses information protected by other statutes, including 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. Section 58.007(c) reads as follows:

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). Upon review, we find the submitted documents involve alleged juvenile delinquent conduct or conduct indicating a need for supervision that occurred after September 1, 1997. *See id.* §§ 51.02(2) (for purposes of section 58.007, "child" means a person who is ten years of age or older and under seventeen years of age), 51.03(a), (b) (defining "delinquent conduct" and "conduct indicating a need for supervision"). Therefore, the submitted information is confidential under 58.007. The exceptions in section 58.007 of the Family Code do not apply.

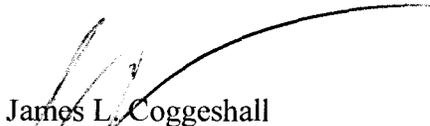
However, the submitted information contains CR-3 accident reports that were completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Section 550.065(b) states, except as provided by subsection (c) or (e), accident reports are privileged and for the confidential use of certain specified entities. *Id.* § 550.065(b). Section 550.065(c)(4) provides for the release of accident reports to a person who provides two of the following three pieces of information: (1) the date of the accident; (2) the name of any person involved in the accident; and (3) the specific location of the accident. *Id.* § 550.065(c)(4). Under this provision, a governmental entity is required to release a copy of an accident report to a person who provides two or more pieces of information specified by the statute. *Id.* The requestor has provided the district attorney's office with the requisite pieces of information specified by the statute.

Although the submitted information is confidential under section 58.007 of the Family Code, section 550.065(c)(4) requires the accident reports to be released to the requestor because she supplied the required information. Therefore, there is a conflict between the provisions of section 58.007 of the Family Code and section 550.065(c)(4) of the Transportation Code. Where general and specific statutes are in irreconcilable conflict, the specific provision typically prevails as an exception to the general provision unless the general provision was enacted later and there is clear evidence the legislature intended the general provision to prevail. See Gov't Code § 311.026(b); *City of Lake Dallas v. Lake Cities Mun. Util. Auth.*, 555 S.W.2d 163, 168 (Tex. Civ. App.—Fort Worth 1977, writ ref'd n.r.e.). Although section 58.007 generally pertains to all juvenile law enforcement records, section 550.065(c)(4) specifically pertains to accident reports. Therefore, section 550.065 governs the release of the submitted accident reports. Although you also assert these reports are excepted from disclosure under sections 552.103, 552.108, and 552.111 of the Government Code, the exceptions to required public disclosure provided in the Act are inapplicable to information that statutes other than the Act expressly make public. Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989). Accordingly, the district attorney's office must release the submitted CR-3 accident reports, which we have marked, pursuant to section 550.065(c)(4) of the Transportation Code. However, the district attorney's office must withhold the remaining information under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.²

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, 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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tch

²As our ruling is dispositive, we do not address your other arguments to withhold this information.

Ref: ID# 485559

Enc. Submitted documents

c: Requestor
(w/o enclosures)