



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 3, 2014

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

OR2014-02025

Dear Mr. Atkinson:

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# 515404 (Fort Worth Public Information Request No. W030597).

The Fort Worth Police Department (the "department") received a request for information pertaining to a named individual, including a specified investigation. The department states it has released some of the requested information but claims the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code.¹ We have considered the claimed exceptions and reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."² Gov't Code § 552.101. Section 552.101 encompasses confidentiality provisions such as section 58.007 of the Family Code. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997, are confidential under section 58.007. The relevant language of section 58.007 reads as follows:

¹We understand you to raise section 552.130 based on your markings.

²The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body. See Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987).

(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.

...

(e) Law enforcement records and files concerning a child may be inspected or copied by . . . a criminal justice agency as that term is defined by Section 411.082, Government Code[.]

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(c), “child” means a person who is ten years of age or older and under seventeen years of age when the conduct occurred), .03(a), (b) (defining “delinquent conduct” and “conduct indicating a need for supervision”). Thus, this information is generally confidential under section 58.007(c) of the Family Code.

However, the requestor is a representative of the Prosecutions Unit of the United States Border Patrol (the “border patrol”). Section 58.007(e) gives a criminal justice agency as defined by section 411.082 of the Government Code a right of access to juvenile law enforcement records. *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). We understand the border patrol is a criminal justice agency as defined by section 411.082. *See id.* Therefore, the requestor has a right of access to the submitted information under section 58.007(e) of the Family Code. Because the requestor has a right of access to this information under section 58.007(e), the department may not withhold it under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. In addition, although you claim the submitted

information is excepted under section 552.108 of the Government Code, 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 Act). Accordingly, the department may not withhold the submitted information from the requestor on that ground.

However, the submitted information contains motor vehicle record information subject to section 552.130 of the Government Code, which excepts from disclosure information relating to a motor vehicle title or registration issued by an agency of this state or another state or country. Gov't Code § 552.130(a)(2). Upon review, we find the information you have marked, as well as the information we have marked, under section 552.130 consists of motor vehicle record information. Thus, the marked motor vehicle record information is 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). Section 58.007(e) generally applies to all juvenile law enforcement records, while section 552.130 specifically protects motor vehicle record information. In addition, because section 552.130 has its own access provisions, we conclude section 552.130 is not a general exception under the Act. *See* ORDs 613 at 4, 451 at 4. 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, notwithstanding the provisions of section 58.007(e) of the Family Code, the department must withhold the marked motor vehicle record information under section 552.130 of the Government Code. The department must release the remaining information to the requestor.³

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.

³Because the requestor has a special right of access under section 58.007(e) of the Family Code to the information being released, the department must again seek a ruling from this office if it receives another request for this information from a different requestor.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,


James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tch

Ref: ID# 515404

Enc. Submitted documents

c: Requestor
(w/o enclosures)