



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 17, 2014

Ms. Christina Alvarado
Assistant District Attorney
Dallas County District Attorney's Office
133 North Riverfront Boulevard, LB-19
Dallas, Texas 75207

OR2014-04442

Dear Ms. Alvarado:

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# 516856.

The Dallas County District Attorney's Office (the "district attorney's office") received a request for the offense reports related to four specified cause numbers. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

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. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997, are confidential under section 58.007(c) of the Family Code, which 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 Subchapters B, D, and E.

...

(e) Law 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, a criminal justice agency as that term is defined by Section 411.082, Government Code, the child, and the child's parent or guardian.

Fam. Code § 58.007(c), (e). 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 at the time of the reported conduct. *See id.* § 51.02(2). Upon review, we find the submitted information involves delinquent conduct by a child that occurred after September 1, 1997. *See id.* § 51.03 (defining "delinquent conduct" for purposes of section 58.007(c)). Thus, this information is generally confidential under section 58.007(c) of the Family Code.

However, section 58.007(e) of the Family Code provides, "[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 Board of Pardons and Paroles of the Texas Department of Criminal Justice. Although it appears the requestor is engaged in the administration of criminal justice for purposes of chapter 411, we are unable to determine whether she intends to use the requested information for a criminal justice purpose. Thus, if the district attorney's office determines the requestor intends to use the requested information for a criminal justice purpose, then the requestor has a right of access to the submitted information under section 58.007(e) of the Family Code, and it must be released to the requestor. We note that a release of information made confidential by section 58.007(c) under the authority of section 58.007(e) would not constitute a disclosure of confidential information to the public for the purposes of section 552.352 of the Government Code or a selective disclosure of information to the public for the purposes of

section 552.007. See Open Records Decision Nos. 680 at 7-8 (2003), 655 at 8-9 (1997). Compare Attorney General Opinion DM-353 at 4 n.6 (1995) (interagency transfer of information prohibited where confidentiality statute enumerates specific entities to which release of confidential information is authorized, and receiving agency is not among statute's enumerated entities). However, if the requestor has no right of access to the submitted information, then it must be withheld in its entirety under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code as information made confidential by law.

To the extent the requestor has a right of access to the submitted information under section 58.007(e) of the Family Code, we note the submitted information contains motor vehicle record information that is subject to section 552.130 of the Government Code. Section 552.130 excepts from disclosure information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. See Gov't Code § 552.130. Upon review, we find the information we have marked 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.

However, as previously noted, the requestor may have 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). In this instance, section 58.007(e) generally applies to all juvenile law enforcement records, while section 552.130 specifically protects 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, to the extent the requestor has a right of access to the submitted information under section 58.007(e) of the Family Code, the district attorney's office must withhold the marked motor vehicle record information under section 552.130 of the Government Code and release the remaining information to the requestor.

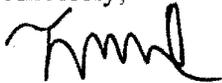
In summary, if the district attorney's office determines the requestor intends to use the submitted information for a criminal justice purpose, then the submitted information must be released to the requestor pursuant to section 58.007(e) of the Family Code. In releasing

the submitted information, the district attorney's office must withhold the marked motor vehicle record information under section 552.130 of the Government Code.¹ However, if the district attorney's office determines the requestor does not intend to use the submitted information for a criminal justice purpose, then the submitted information must be withheld in its entirety under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

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.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,



Tim Neal
Assistant Attorney General
Open Records Division

TN/dls

Ref: ID# 516856

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹We note, to the extent the information is being released, this requestor has a special right of access under section 58.007(e) of the Family Code. Therefore, if the district attorney's office receives another request for this information from a different requestor, the district attorney's office must again seek a ruling from this office.