



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 31, 2015

Ms. Susan Fillion  
Assistant County Attorney  
Harris County  
1200 Baker Street, Second Floor  
Houston, Texas 77002-1206

OR2015-15671

Dear Ms. Fillion:

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# 573718 (HCSO File No. 14SO600658).

The Harris County Sheriff's Office (the "sheriff's office") received a request for a specified incident report and any charges filed on a named individual. You claim that the submitted information is excepted from disclosure pursuant to sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note you have only submitted the specified incident report for our review. To the extent any additional information responsive to this request existed and was maintained by the sheriff's office on the date it received this request, we assume the sheriff's office has released it. If the sheriff's office has not released any such information, it must do so at this time. Gov't Code §§ 552.301(a), .302; Open Records Decision No. 664 (2000) (noting that if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible under circumstances).

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. Section 552.101 encompasses 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. *See* Fam. Code § 58.007(c). Section 58.007 provides in part the following:

(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.

*Id.* § 58.007(c), (e). Upon review, we find the submitted information involves alleged juvenile 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(b) (defining "conduct indicating a need for supervision" for purposes of Fam. Code § 58.007). Therefore, the submitted information is generally confidential under section 58.007(c) of the Family Code.

However, the requestor is a representative of the Brazos County Juvenile Services Department (the "department"). Section 58.007(e) of the Family Code gives a juvenile justice agency as defined by section 58.101 of the Family Code a right of access to juvenile law enforcement records. *Id.* § 58.007(e). Section 58.101(5) of the Family Code defines a "juvenile justice agency" as an agency that has custody or control over juvenile offenders. *Id.* § 58.101(5). We understand the department is a juvenile justice agency as defined by section 58.101. *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 sheriff's office may not withhold it under section 552.101 of the Government Code in conjunction with section 58.007(c) of

the Family Code. We also note a specific statutory right of access overcomes the general exceptions in the Act, including section 552.108 of the Government Code. *See* Open Records Decision Nos. 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information), 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Act). Accordingly, the sheriff's office may not withhold the submitted information under section 552.108 of the Government Code.

We note, however, the information at issue contains motor vehicle record information that is subject to section 552.130 of the Government Code.<sup>1</sup> Section 552.130 provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or a personal identification document issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130. Although, as previously stated, 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. Accordingly, the motor vehicle record information we have marked is generally confidential under section 552.130 of the Government 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. 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 sheriff's office must withhold the marked motor vehicle record information under section 552.130 of the Government Code. The remaining submitted information must be released to this requestor pursuant to section 58.007(e) of the Family Code.<sup>2</sup>

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

<sup>2</sup>Because the requestor has a special right of access to the information being released, the sheriff's office must again seek a decision from this office if it receives another request for the same information from another requestor.

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](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,

A handwritten signature in black ink, appearing to read "Debbie K. Lee", with a long horizontal flourish extending to the right.

Debbie K. Lee  
Assistant Attorney General  
Open Records Division

DKL/dls

Ref: ID# 573718

Enc. Submitted documents

c: Requestor  
(w/o enclosures)