



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 10, 2010

Mr. John Ferguson
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773

OR2010-13760

Dear Mr. Ferguson:

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# 398677.

The Texas Department of Public Safety (the "department") received a request for any video or photos pertaining to an auto accident on July 8, 2010 ("first requestor") and subsequently received another request for the entire file pertaining to the same specified incident ("second requestor"). You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions 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, 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 reads:

(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(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). The submitted file involves a sixteen-year-old individual suspected of criminally negligent homicide. Thus, we find this file involves juvenile delinquent conduct. *See id.* § 51.03(a) (defining juvenile "delinquent conduct" for purposes of section 58.007). It does not appear any of the exceptions in section 58.007 of the Family Code apply. We find the submitted information is generally confidential under section 58.007(c) of the Family Code; therefore, the video and photos must be withheld from the first requestor and the entire file must be withheld from the second requestor.

We note, however, the submitted information contains a CR-3 accident report that appears to have been completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Section 552.101 also encompasses chapter 550 of the Transportation Code. 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.* In this instance, the second requestor has provided the department with the date of the accident and the name of a person involved in the accident pursuant to section 550.065(c)(4).

Although the requested information is generally confidential under section 58.007 of the Family Code, section 550.065(c)(4) requires the accident report be released to the second requestor because the requisite information was provided. *Id.* 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.). In this instance, although section 58.007 generally pertains to all juvenile law enforcement records, section 550.065(c)(4) specifically pertains to accident reports.

Therefore, in this instance, section 550.065 governs the release of the submitted accident report. Additionally, you claim the submitted accident report is excepted from disclosure under section 552.108 of the Government Code. We note, as a general rule, statutes governing the release of specific information prevail over the general exceptions to disclosure found in the Act. *See* Attorney General Opinion DM-146 (1992); *see also* Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989), 451 at 3 (1986). Therefore, the department must release the submitted CR-3 accident report to the second requestor pursuant to section 550.065(c)(4) of the Transportation Code.

In summary, we find the submitted information is generally confidential under section 58.007(c) of the Family Code; therefore, the video and photos must be withheld from the first requestor and the entire file, with the exception of the CR-3 accident report under section 550.065(c)(4) of the Transportation Code, must be withheld from the second 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.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,



Sean Nottingham
Assistant Attorney General
Open Records Division

SN/eeg

Ref: ID# 398677

Enc. Submitted documents

c: Requestor
(w/o enclosures)