



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 7, 2012

Ms. Cheryl K. Byles
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2012-17867

Dear Ms. Byles:

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# 471169 (ORR# W019735).

The City of Fort Worth (the "city") received a request for a specified case involving a named individual. You claim the submitted information is excepted from disclosure under sections 552.101, 552.130, and 552.147 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. 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. Fam. Code § 58.007(c). The relevant portion of section 58.007 provides:

(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 younger than seventeen years of age. *See id.* § 51.02(2). Upon review, we find the submitted report 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). 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 United States Probation Office (the “probation office”). You state the probation office “is a federal agency engaged in the administration of criminal justice.” Thus, we agree the probation office is a criminal justice agency for purposes of section 58.007(e). Accordingly, the requestor has a right to inspect the submitted information under section 58.007(e) of the Family Code, and it may not be withheld from this requestor under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

You contend, however, certain motor vehicle record information is excepted from disclosure under 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, and the additional 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 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). 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, the city must withhold the marked motor vehicle record information under section 552.130 of the Government Code.

You also seek to withhold a social security number under section 552.147 of the Government Code. *See Gov't Code § 552.147(b)* (authorizing a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act). However, this section is a general exception to disclosure under the Act. As previously noted, 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 the Act). Because the requestor, in this instance, has a statutory right of access to the submitted information, the city may not withhold the social security number you have marked under section 552.147 of the Government Code.

In summary, the city must withhold the marked motor vehicle record information under section 552.130 of the Government Code. The remaining information must be released to this requestor pursuant to section 552.101 of the Government Code in conjunction with section 58.007(e) of the Family Code.¹

You also ask this office to issue a previous determination that would authorize the city to release juvenile law enforcement records to a federal probation office without the necessity of requesting a decision from this office. We decline to issue such a previous determination at this time. Accordingly, this letter ruling is limited to the particular information at issue

¹Because this information is confidential with respect to the general public, if the city receives another request for this particular information from a different requestor, the city should again seek a decision from this office.

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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 471169

Enc. Submitted documents

c: Requestor
(w/o enclosures)