



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 13, 2012

Ms. LeAnn M. Quinn
City Secretary
City of Cedar Park
450 Cypress Creek Road
Cedar Park, Texas 78613

OR2012-18232

Dear Ms. Quinn:

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# 474830 (Ref. No. 13-027).

The City of Cedar Park (the "city") received a request for a specified police report. You claim portions of the requested information are excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that the submitted information includes the results of an analysis of a breath specimen of the requestor's seventeen year old son. Section 724.018 of the Transportation Code provides that, on the request of the person who has given a specimen at the request of a peace officer, full information concerning the analysis of the specimen must be made available to that person or the person's attorney. Transp. Code § 724.018. Where a statute provides an individual with a special right of access to information, that information may not be withheld from that individual pursuant to section 552.108, the law-enforcement exception. See Open Records Decision Nos. 623 (1994), 613 (1993). The city, however, also raises section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 encompasses confidentiality provisions such as Family Code section 58.007.

Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. *See* Fam. Code § 51.03(a)(defining “delinquent conduct” for purposes of title 3 of Family Code). The juvenile must have been at least 10 years old and less than 17 years of age when the conduct occurred. *See id.* § 51.02(2) (defining “child” for purposes of title 3 of Family Code). The relevant language of section 58.007 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 Subchapter B.

Fam. Code § 58.007(c). The submitted information pertains to juvenile delinquent conduct that occurred after September 1, 1997. Therefore, the submitted information is subject to section 58.007(c).

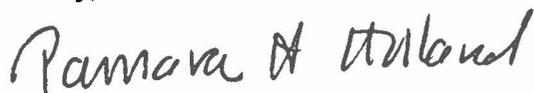
However, the withholding of information under section 58.007(c) of the Government Code conflicts with the express language in section 724.018 of the Transportation Code providing for release of the specimen analysis to the person or the person’s attorney. Because we are unable to harmonize the two statutes, we must look to the provisions dealing with conflicting statutes in the Code Construction Act. Gov’t Code § 311.001. When reviewing conflicting statutes, the Code Construction Act provides that special or local provisions prevail over general provisions unless the general provision was enacted later than the special or local provision and the manifest intent is that the general provision prevail. Gov’t Code § 311.026(b); *see also City of Dallas v. Mitchell* 870 S.W.2d 21, 22 (Tex. 1994). Because section 724.018 of the Transportation Code specifically applies to specimen analyses and there is no manifest intent that section 58.007 prevail, we conclude that section 724.018 of the Transportation Code prevails over section 58.007 of the Family Code under the provisions of the Code Construction Act. Therefore, you must release the specimen analysis of the requestor’s son to the requestor. You must withhold the remaining submitted

information under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.¹

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,



Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/ac

Ref: ID# 474830

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹As our ruling is dispositive, we need not address your remaining argument.