



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 8, 2014

Mr. Grant Jordan  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street, Third Floor  
Fort Worth, Texas 76102

OR2014-11731

Dear Mr. Jordan:

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# 528364 (Fort Worth Request Nos. W033224 and W033560).

The City of Fort Worth (the "city") received two requests from different requestors for information pertaining to a specified police report. You claim the requested 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 exception encompasses information other statutes make confidential. Section 58.007 provides in part:

(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). Juvenile law enforcement records relating to delinquent conduct that occurred on or after September 1, 1997, are confidential under section 58.007(c). *See id.* § 51.03(a) (defining "delinquent conduct" for purposes of section 58.007). 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. *See id.* § 51.02(2). Upon review, we find the submitted information involves alleged juvenile delinquent conduct occurring after September 1, 1997. Therefore, the submitted information is generally confidential under section 58.007 and must be withheld in its entirety from the second requestor under section 552.101 of the Government Code.<sup>1</sup>

However, the first requestor is an employee of the Crowley Independent School District Police Department. Although it appears the first requestor is engaged in the administration of criminal justice for purposes of chapter 411, we are unable to determine whether he intends to use the requested information for a criminal justice purpose. Thus, if the city determines the first requestor intends to use the requested information for a criminal justice purpose, then the first requestor has a right of access to the submitted information under section 58.007(e) of the Family Code. Although you claim the submitted information is excepted under section 552.108 of the Government Code, 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 Act). However, if the first 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.

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure as to the second requestor.

However, the submitted information contains motor vehicle record information subject to 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 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 first 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). 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, if the city determines the first requestor intends to use the requested information for a criminal justice purpose, then, with the exception of the marked motor vehicle record information which must be withheld under section 552.130 of the Government Code, the city must release the submitted information to the first requestor.<sup>2</sup>

In summary, the city must withhold the submitted information from the second requestor under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Government Code. If the city determines the first requestor does not intend to use the requested information for a criminal justice purpose, then the submitted information must be withheld from the first requestor under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. If the city determines the first requestor intends to use the requested information for a criminal justice purpose, then, with the exception of the marked motor vehicle record information which must be withheld under section 552.130 of the Government Code, the city must release the submitted information to the first requestor.

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<sup>2</sup>If the first requestor has a special right of access under section 58.007(e) of the Family Code to the information being released, the city must again seek a ruling from this office if it receives another request for this information from a different 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,



Jennifer Luttrall  
Assistant Attorney General  
Open Records Division

JL/akg

Ref: ID# 528364

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)