



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 13, 2017

Mr. James Kopp
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR2017-03249

Dear Mr. Kopp:

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# 650924 (COSA# W152507).

The City of San Antonio (the "city") received a request for information pertaining to a specified incident. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception 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."¹ Gov't Code § 552.101. Section 552.101 encompasses information other statutes make confidential, such as section 58.007 of the Family Code. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997, are confidential under section 58.007(c). Section 58.007 provides, in pertinent part, 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:

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

- (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 when the conduct occurred. *See id.* § 51.02(2). Upon review, we conclude the submitted information consists of law enforcement records involving juvenile delinquent conduct occurring after September 1, 1997, and is, therefore, subject to section 58.007(c). *See id.* § 51.03(a) (defining “delinquent conduct” for purposes of section 58.007). None of the exceptions in section 58.007 apply. Therefore, the submitted information is generally confidential under section 58.007(c) of the Family Code.

We note, however, the submitted information includes a CR-3 accident report. Section 550.065 of the Transportation Code applies only to a written report of an accident required under section 550.061, 550.062, or 601.004. Transp. Code § 550.065(a)(1). Chapter 550 requires the creation of a written report when the accident resulted in injury to or the death of a person or damage to the property of any person to the apparent extent of \$1,000 or more. *Id.* §§ 550.061 (operator’s accident report), .062 (officer’s accident report). An accident report is privileged and for the confidential use of the Texas Department of Transportation or a local governmental agency of Texas that has use for the information for accident prevention purposes. *Id.* § 550.065(b). However, a governmental entity may release an accident report in accordance with subsections (c) and (c-1). *Id.* § 550.065(c), (c-1). Section 550.065(c) provides a governmental entity shall release an accident report to a person or entity listed under this subsection. *Id.* § 550.065(c).

Here, the requestor is a person listed under section 550.065(c). Thus, although the submitted information is generally confidential under section 58.007(c) of the Family Code, section 550.065(c) requires the accident report to be released to this requestor. Therefore, we must address the conflict between the confidentiality provided under section 58.007(c) of the Family Code and the right of access provided under section 550.065(c) 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(c) generally pertains to all juvenile law enforcement records, section 550.065(c) specifically pertains to accident reports. Therefore,

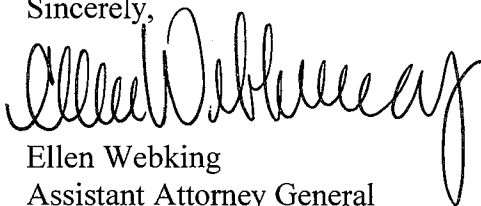
we find section 550.065 is more specific than, and prevails over, section 58.007(c). Thus, the city may not withhold this information under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

Furthermore, although the city asserts section 552.108 of the Government Code to withhold this information, a statutory right of access prevails over the Act's general exceptions to public disclosure. *See, e.g.*, 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 exception to disclosure under the Act). Because section 552.108 is a general exception under the Act, the requestor's statutory access under section 550.065(c) prevails and the city may not withhold the information under section 552.108 of the Government Code. Therefore, the city must release the CR-3 accident report to this requestor pursuant to section 550.065(c) of the Transportation Code.² The city must withhold the remaining information under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.³

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, 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,



Ellen Webking
Assistant Attorney General
Open Records Division

EW/bw

²We note that because the requestor has a statutory right of access to the information being released in this instance, the city must again seek a decision from this office if it receives another request for the same information from another requestor.

³As our ruling is dispositive, we need not address the city's remaining arguments against disclosure of this information.

Ref: ID# 650924

Enc. Submitted documents

c: Requestor
(w/o enclosures)