



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 28, 2017

Mr. Nicholas Toulet  
Assistant City Attorney  
City of Midland  
P.O. Box 1152  
Midland, Texas 79702

OR2017-06286

Dear Mr. Toulet:

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# 650702 (Ref. Nos. M019812-011117, M019892-012017).

The Midland Police Department and the City of Midland (collectively, the "city") received two requests from different requestors for information pertaining to specified incidents involving a named individual. You claim the submitted information is excepted from disclosure under section 552.101 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 public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses section 58.007 of the Family Code. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997, are subject to section 58.007 of the Family Code, which provides, in relevant 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). Section 58.007(c) is applicable to records of juvenile delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997. *See id.* § 51.03(a), (b) (defining "delinquent conduct" and "conduct indicating a need for supervision" 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 at the time of the reported conduct. *See id.* § 51.02(2). Upon review, we find report numbers 97122220073, 9805100022, and 9812020079 involve juvenile delinquent conduct or conduct indicating a need for supervision that occurred after September 1, 1997. Therefore, this information is generally confidential under section 58.007(c) of the Family Code.

We note report numbers 9606210070 and 9708190012 involve juvenile delinquent conduct or conduct indicating a need for supervision that occurred on June 23, 1996, and August 19, 1997, respectively. Prior to its repeal by the Seventy-Fourth Legislature, section 51.14(d) provided for the confidentiality of juvenile law enforcement records. *See* Open Records Decision No. 181 (1977) (concluding that former section 51.14(d) of the Family Code excepts police reports which identify juvenile suspects or furnish basis for their identification). Law enforcement records pertaining to juvenile conduct occurring before January 1, 1996, are governed by former section 51.14(d), which was continued in effect for that purpose. Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex. Gen. Laws 2517, 2591. The Seventy-fifth Legislature amended section 58.007 to once again make juvenile law enforcement records confidential effective September 1, 1997. Act of June 2, 1997, 75th Leg., R.S., ch. 1086, 1997 Tex. Sess. Law Serv. 4179, 4187 (Vernon). However, the legislature chose not to make this most recent amendment retroactive in

application. Consequently, law enforcement records pertaining to juvenile conduct that occurred between January 1, 1996, and September 1, 1997, are not subject to the confidentiality provisions of either the former section 51.14(d) or the current section 58.007 of the Family Code. Therefore, the information pertaining to conduct that occurred on June 21, 1996, and August 19, 1997, is not made confidential by either section 58.007 of the Family Code or former section 51.14(d) of the Family Code. Accordingly, the city may not withhold report numbers 9606210070 and 9708190012 under section 552.101 of the Government Code on these bases.

We note, and you acknowledge, the requestors are representatives of the Probation Office of the United States District Court for the Western District of Texas (the “probation office”). Section 58.007(e) of the Family Code gives a “criminal justice agency as . . . defined by Section 411.082, Government Code” a right of access to juvenile law enforcement records. Fam. Code § 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). You state, and we agree, the requestors represent a criminal justice agency. *See id.* Therefore, the requestors have a right of access to report numbers 97122220073, 9805100022, and 9812020079 under section 58.007(e) of the Family Code, and the city may not withhold this information from these requestors under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

We note, however, report numbers 97122220073, 9805100022, and 9812020079 contain motor vehicle record information subject to section 552.130 of the Government Code.<sup>1</sup> Section 552.130 provides information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See id.* § 552.130(a). Accordingly, the motor vehicle record information we have marked is generally confidential under section 552.130 of the Government Code.

However, as previously noted, the requestors have a statutory right of access to report numbers 97122220073, 9805100022, and 9812020079. 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

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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 motor vehicle record information we have marked under section 552.130 of the Government Code.

In summary, in releasing report numbers 97122220073, 9805100022, and 9812020079 to these requestors pursuant to section 58.007(e) of the Family Code, the city must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. The city must release the remaining information.<sup>2</sup>

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,



Meredith L. Coffman  
Assistant Attorney General  
Open Records Division

MLC/bw

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<sup>2</sup>As previously noted, the requestors have a special right of access under section 58.007(e) of the Family Code to some of the information being released. *See* Fam. Code § 58.007(e). If the city receives another request for this same information from another individual who does not have a right of access to the information, the city should request another ruling. *See* Gov't Code § 552.301, .302; Open Records Decision No. 673 (2001).

Ref: ID# 650702

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)