



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 22, 2017

Mr. William Ryan
Lieutenant
Pharr Police Department
1900 South Cage
Pharr, Texas 78577

OR2017-13959

Dear Mr. Ryan:

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# 663137 (ORR# 2017-262).

The Pharr Police Department (the "department") received a request for all records related to a named individual, including information related to a specified incident. The department states it has released some of the requested information. The department claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception the department claims 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 section encompasses information protected by other statutes. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997, are confidential under section 58.007(c) of the Family Code, which 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 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 at the time of the reported conduct. *See id.* § 51.02(2). The submitted information involves juvenile delinquent conduct or conduct indicating a need for supervision that occurred after September 1, 1997. *See id.* § 51.03 (defining “delinquent conduct” and “conduct indicating a need for supervision” for purposes of Fam. Code § 58.007). It does not appear any of the exceptions in section 58.007 apply. Therefore, the submitted information is generally confidential under section 58.007(c) of the Family Code.

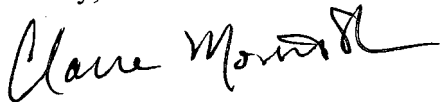
In this instance, we note the requestor is a licensure analyst for the Texas Medical Board (the “board”) and may have a right of access to the information at issue. Section 153.006 of the Occupations Code provides, in part, “[t]he board may receive criminal record reports from any law enforcement agency or another source regarding a license holder or license applicant.” Occ. Code § 153.006(a). The board seeks criminal records pertaining to an individual who may be an applicant for or the holder of a license from the board. If the individual is an applicant for or the holder of a license from the board, then the requestor generally has a right of access to the submitted information under section 153.006(a). In that case, we must address the conflict between the confidentiality of section 58.007(c) of the Family Code and the requestor’s right of access under section 153.006 of the Occupations Code. Where information falls within both general and specific statutory provisions, the specific provision prevails over the general provision unless the general provision was enacted later and there is clear evidence that the legislature intended the general provision to prevail. *See Gov’t Code § 311.026(b); 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 153.006 gives one specific requestor, the board, access to particular information relating to a license holder or license applicant. *See Occ. Code § 153.006(a)*. However, section 58.007(c) prohibits any member of the public from obtaining any and all law enforcement records of any incident in which a juvenile is engaged in delinquent conduct or conduct indicating a need for supervision occurring on or

after September 1, 1997. *See* Fam. Code § 58.007. Upon review, we find the requestor's access under section 153.006 is more specific than the general confidentiality of section 58.007(c). Additionally, we do not believe the legislature intended for the board's access to be limited by section 58.007(c) of the Family Code. Accordingly, section 153.006 prevails, and, if the individual is an applicant for or the holder of a license from the board, then the department may not withhold the submitted information from the board under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code, but must release it to this requestor. However, if the named individual is not an applicant for or the holder of a license from the board, then the department must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 663137

Enc. Submitted documents

c: Requestor
(w/o enclosures)