



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 10, 2020

Ms. Jacqueline Villarreal
Assistant District Attorney
County of Hidalgo
100 East Cano Street
Edinburg, Texas 78539

OR2020-22836

Dear Ms. Villarreal:

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# 843940 (ORR# 2020-0109-DA.CO).

The Hidalgo County Juvenile Probation Department (the "county") received a request for information pertaining to a specified incident that involves a named individual. The county claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception 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 section 58.007 of the Family Code, which makes confidential juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997. Section 58.007 provides, in relevant part, the following:

(b) Except as provided by Section 54.051(d-1) and by Article 15.27, Code of Criminal Procedure, the records, whether physical or electronic, of a juvenile court, a clerk of court, a juvenile probation department, or a prosecuting attorney relating to a child who is a party to a proceeding under [Title 3 of the Family Code] may be inspected or copied only by:

...

(2) a juvenile justice agency as that term is defined by Section 58.101[.]

...

(i) In addition to the authority to release information under Subsection (b)(6), a juvenile probation department may release information contained in its records without leave of the juvenile court pursuant to guidelines adopted by the juvenile board.

Fam. Code § 58.007(b), (i). The submitted information consists of records maintained by the county that concern a juvenile offender. We understand the information at issue relates to a juvenile who was a party to proceedings under the Juvenile Justice Code, title 3 of the Family Code. The county indicates the requestor is not a person or entity authorized to access this information under section 58.007(b). However, as a juvenile probation department, the county has the discretion to release the requested information pursuant to guidelines adopted by the juvenile board. *See id.* § 58.007(i). The county does not inform us it has adopted a rule governing the release of this type of information. Therefore, we assume no such rule exists. Given that assumption, we conclude the county must generally withhold the submitted information under section 552.101 of the Government Code in conjunction with section 58.007(b) of the Family Code.

However, we note the requestor is a representative of the United States Probation Office for the Southern District of Texas (the “probation office”). Section 411.089(a) of the Government Code provides “[a] criminal justice agency is entitled to obtain from the [Texas Department of Public Safety (“DPS”)] any criminal history record information [(“CHRI”)] maintained by [DPS] about a person.” Gov’t Code § 411.089(a); *see also id.* § 411.083(b)(1) (DPS shall grant criminal justice agencies access to CHRI). In addition, section 411.087(a)(2) of the Government Code provides the following:

[A] person, agency, department, political subdivision, or other entity that is authorized by this subchapter or Subchapter E-1 to obtain from the [DPS CHRI] maintained by the [DPS] that relates to another person is authorized to:

...

(2) obtain from any other criminal justice agency in this state [CHRI] maintained by that criminal justice agency that relates to that person.

Id. § 411.087(a)(2). CHRI is defined as “information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions.” *See id.* § 411.082(2). Thus, this provision may grant the probation office a right of access to CHRI in the submitted information. A criminal justice agency that receives CHRI from

another criminal justice agency pursuant to section 411.087(a)(2) may only receive such information for a criminal justice purpose. *See id.* §§ 411.083(c), .087(b); *see also* Open Records Decision No. 655 (1997) (discussing limitations on release of CHRI). Section 411.082 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). “Administration of criminal justice” has the meaning assigned by article 66.001 of the Code of Criminal Procedure. *See id.* § 411.082(1). Article 66.001 of the Code of Criminal Procedure defines “[a]dministration of criminal justice” as the “detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of an offender. The term includes criminal identification activities and the collection, storage, and dissemination of [CHRI].” Crim. Proc. Code art. 66.001(1).

The probation office is a criminal justice agency as defined by section 411.082. *See* Gov’t Code § 411.082(3)(A). We understand the probation office intends to use the information at issue for a criminal justice purpose. Thus, the requestor is generally authorized to obtain CHRI pertaining to the named individual from the county pursuant to sections 411.087(a)(2) and 411.089 of the Government Code. *See id.* §§ 411.083(c), .087(a)(2), .089.

We must address the conflict between the confidentiality of section 58.007(b) of the Family Code and the probation office’s right of access to CHRI under sections 411.087 and 411.089 of the Government Code. Where information falls within both a general and a specific statutory provision, the specific provision prevails over the general statute. *See id.* § 311.026 (where general statutory provision conflicts with specific provision, specific provision prevails as exception to general provision unless the general provision is the later enactment and the manifest intent is that the general provision prevail); *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). While section 58.007(b) generally makes juvenile law probation records confidential, sections 411.087 and 411.089 of the Government Code give a specific type of requestor, criminal justice agencies, access to particular information, CHRI, about a person. *See* Fam. Code § 58.007(b); Gov’t Code §§ 411.087, .089. Thus, the statutory right of access granted to the probation office by sections 411.087 and 411.089 of the Government Code prevails over the more general confidentiality provision of section 58.007(b) of the Family Code. Accordingly, the county must release CHRI about the named individual pursuant to sections 411.087 and 411.089 of the Government Code.¹ The county must withhold the remaining information under section 552.101 of the Government Code in conjunction with section 58.007(b) 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.

¹ Because the requestor has a special right of access to the information being released, the county must again seek a decision from this office if it receives another request for the same information from another requestor.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/jm

Ref: ID# 843940

Enc. Submitted documents

c: Requestor
(w/o enclosures)