



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 18, 2022

Mr. Santos Hinojosa
Assistant District Attorney
Brazoria County
111 East Locust, Suite 408 A
Angleton, Texas 77515

OR2022-01397

Dear Mr. Hinojosa:

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# 926691 (ORR# 21-2097).

The Brazoria County Criminal District Attorney's Office (the "district attorney's office") received a request for information pertaining to two named individuals.¹ The district attorney's office 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 58.008(b) of the Family Code, which provides as follows:

(b) Except as provided by Subsection (c), law enforcement records concerning a child and information concerning a child that are stored by electronic means or otherwise and from which a record could be generated may not be disclosed to the public and shall be:

¹The district attorney's office sought and received clarification of the information requested. *See* Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (if governmental entity, acting in good faith, requests clarification of unclear or over-broad request, ten-day period to request attorney general ruling is measured from date request is clarified).

- (1) if maintained on paper or microfilm, kept separate from adult records;
- (2) if maintained electronically in the same computer system as adult records, accessible only under controls that are separate and distinct from the 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 Subsection (c) or Subchapter B, D, or E.

Fam. Code § 58.008(b); *see also id.* § 51.03(a) (defining “delinquent conduct” for purposes of title 3 of Family Code). Section 58.008(b) is applicable to records of juvenile conduct that occurred before, on, or after September 1, 2017. *See* Act of May 28, 2017, 85th Leg., R.S., ch. 746, § 22. The juvenile must have been at least 10 years old and less than 17 years of age when the conduct occurred. *See* Fam. Code § 51.02(2) (defining “child” for purposes of title 3 of Family Code). The submitted information involves a juvenile offender, so as to fall within the scope of section 58.008(b). It does not appear any of the exceptions in section 58.008 apply. Accordingly, the district attorney’s office must generally withhold the submitted information under section 552.101 of the Government Code in conjunction with section 58.008(b) of the Family Code.

However, the requestor is a representative of CASA for Kids of South Central Texas, which is a children’s advocacy center. Subchapter E of chapter 264 of the Family Code concerns the establishment and duties of children’s advocacy centers. *See id.* §§ 264.401-411. Section 264.405 of the Family Code directs children’s advocacy centers to provide services for victims of child abuse and their families. *Id.* § 264.405. Further, section 264.408(c) of the Family Code provides “a law enforcement agency . . . may share with a [children’s advocacy] center information that is confidential under Section 261.201 as needed to provide services” under chapter 264 of the Family Code. *Id.* § 264.408(c). We are unable to determine whether the requestor seeks the requested information to provide services under chapter 264 of the Family Code. Therefore, if the district attorney’s office determines the submitted information is needed to provide services under chapter 264 of the Family Code, then the district attorney’s office generally has the discretion to release this information to the requestor pursuant to section 264.408(c). Thus, there is a conflict between the confidentiality provided under section 58.008(b) of the Family Code and access provided under section 264.408 of the Family Code regarding the submitted information.

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 264.408 allows a law enforcement agency to share with a child advocacy center information that is confidential under section 261.201 as needed to provide

services under chapter 264 of the Family Code. *See* Fam. Code § 264.408(c). Conversely, section 58.008(b) 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. *See id.* § 58.008(b). Accordingly, we find section 264.408(c) is more specific than, and prevails over, section 58.008(b). Therefore, if the district attorney's office determines the submitted information is needed to provide services under chapter 264 of the Family Code, then the district attorney's office has the discretion to release this information pursuant to section 264.408(c) of the Family Code. If the district attorney's office does not release the submitted information to the requestor pursuant to section 264.408(c) of the Family Code, then it must withhold it under section 552.101 of the Government Code in conjunction with section 58.008(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.

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/jxd

Ref: ID# 926691

Enc. Submitted documents

c: Requestor
(w/o enclosures)