



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 22, 2022

Ms. Sally Ortiz
Senior Open Records Assistant
City of Plano
P.O. Box 860358
Plano, Texas 75086-0358

OR2022-05197

Dear Ms. Ortiz:

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# 932448 (Tracking #P018769-113021).

The Plano Police Department (the "department") received a request for all records pertaining the requestor during a defined period of time. You state you have released some information to the requestor. 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 representative sample of information.¹

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. Section 552.101 encompasses section 58.008 of the Family Code, which provides, in part, 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:

¹ We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

(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)-(b) (defining “delinquent conduct” and “conduct indicating a need for supervision” 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). Upon review, we find the submitted information involves juvenile offenders, 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 department 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, we note a portion of the submitted information, which we marked, consists of information pertaining to the analysis of an individual’s blood alcohol content. Section 724.018 of the Transportation Code provides that, on the request of the person who has given a specimen at the request of a peace officer, full information concerning the analysis of the specimen must be made available to that person or the person’s attorney. Transp. Code § 724.018. In this instance, the requestor is the individual who provided the specimen at the request of a peace officer. Accordingly, we find the requestor generally has a right of access to this information pursuant to section 724.018 of the Transportation Code.

Thus, although the information at issue is generally confidential under section 58.008(b) of the Family Code, section 724.018 provides the requestor with a right of access to the information we marked. Therefore, there is a conflict between the confidentiality provision of section 58.008(b) and the right of access provision of section 724.018. 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 58.008(b) of the Family Code generally makes juvenile law enforcement records confidential, section 724.018 of the Transportation Code specifically requires release of information pertaining to the analysis of a breath or blood specimen to certain parties. We, therefore, conclude the information we marked may not be withheld from this requestor under section 58.008(b). Thus, the department must release the information we marked to the requestor pursuant to section 724.018 of the Transportation Code, but must withhold

the remaining information under section 552.101 of the Government Code in conjunction with section 58.008(b) of the Family Code.²

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,

Kimbell Kesling
Assistant Attorney General
Open Records Division

KK/jm

Ref: ID# 932448

Enc. Submitted documents

c: Requestor
(w/o enclosures)

² We note the requestor has a right of access beyond that of the general public to the information being released pursuant to section 724.018 of the Transportation Code. Accordingly, if the department receives another request for this information from an individual other than this requestor, it must again seek a ruling from this office.