

# Juvenile Law Case Summaries

By  
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***Attorney General says juvenile is entitled to see alcohol blood tests results but others are not [OR2001-4438] (01-4-31).***

On October 3, 2001, the Attorney General said in a Public Information Act opinion that a juvenile, through his attorney, is entitled to see alcohol blood test results, but others are not entitled to see those results.

01-4-31. Attorney General Opinion No. OR2001-4438, 2001 WL 1174625 (10/3/01) [Texas Juvenile Law (5th Edition 2000)].

Ms. Karen H. Brophy Attorney for the Town of Flower Mound Brown & Hofmeister, L.L.P. 1717 Main Street, Suite 4300 Dallas, Texas 75201-4335

Dear Ms. Brophy:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID # 152742.

The Town of Flower Mound (the "town"), which you represent, received two requests for a specified juvenile's blood sample results. You claim that the requested information is excepted from disclosure under sections 552.101, 552.103, and 552.108 of the Government Code. We have considered your exceptions and reviewed the submitted information.

Initially, we note that section 724.018 of the Transportation Code provides as follows: "On the request of a person who has given a specimen at the request of a peace officer, full information concerning the analysis of the specimen shall be made available to the person or the person's attorney." Where a statute provides an individual with a special right of access to information, that information may not be withheld from that individual pursuant to section 552.108, the law-enforcement exception. See Open Records Decision Nos. 623 (1994), 613 (1993). The town, however, also asserts that the specimen analysis is excepted under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 encompasses confidentiality provisions such as Family Code section 58.007. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. The relevant language of section 58.007 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 Subchapter B.

Fam. Code § 58.007(c). The submitted information involves juvenile conduct that occurred after September 1, 1997.

However, the withholding of information under section 58.007 of the Government Code conflicts with the express language in section 724.018 of the Transportation Code providing for release of the specimen analysis to the person or the person's attorney. Because we are unable to harmonize the two statutes, we must look to the provisions dealing with conflicting statutes in the Code Construction Act. Gov't Code § 311.001. When reviewing conflicting statutes, the Code Construction Act provides that special or local provisions prevail over general provisions unless the general provision was enacted later than the special or local provision and the manifest intent is that the general provision prevail. Gov't Code § 311.026(b); see also *City of Dallas v. Mitchell* 870 S.W.2d 21, 22 (Tex. 1994). Because section 724.018 of the Transportation Code specifically applies to specimen analyses and there is no manifest intent that section 58.007 prevail, we conclude that section 724.018 of the Transportation Code prevails over section 58.007 of the Family Code under the provisions of the Code Construction Act. Therefore, you must release the specimen analysis to the requestor who is the attorney of the person providing the specimen.

The second requestor, however, is not the person who provided the specimen or the attorney and, therefore, the town is not required to release the specimen to this requestor under section 724.018 of the Transportation Code. Thus, there is no statutory conflict with regard to the second requestor. Therefore, we conclude that you must withhold the specimen analysis from the second requestor under section 552.101 in conjunction with section 58.007 of the Family Code.

*[Balance of the letter dealing with disclosure and appeal procedures is omitted.]*

Sincerely,

Jennifer Bialek  
Assistant Attorney General  
Open Records Division

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