



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 6, 2014

Mr. Daniel Ortiz  
Assistant City Attorney  
Office of the City Attorney  
City of El Paso  
P.O. Box 1890  
El Paso, Texas 79950-1890

OR2014-03915

Dear Mr. 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# 516172 (13-1026-3879, W027925-121313).

The El Paso Police Department (the "department") received a request for information pertaining to a specified incident involving a named individual. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We have also received and considered the requestor's comments. *See* Gov't Code § 552.304 (interested party may submit written comments regarding availability of requested information).

We note the requestor is a representative of the Texas Department of State Health Services (the "DSHS"). The requestor has informed the department that the DSHS seeks the requested information as part of an investigation the DSHS is conducting pursuant to chapter 773 of the Health and Safety Code. Section 773.0612 of the Health and Safety Code provides the DSHS or its representative "is entitled to access to records and other documents . . . that are directly related to . . . emergency medical services personnel to the extent necessary to enforce [chapter 773 of the Health and Safety Code] and the rules adopted under [chapter 773 of the Health and Safety Code]." Health & Safety Code § 773.0612(a). The DSHS states the submitted information pertains to an emergency medical technician licensed under chapter 773 of the Health and Safety Code. The DSHS indicates the information is needed to enforce section 157.36(b) of title 25 of the Texas

Administrative Code. *See* 25 T.A.C. § 157.36(b). Because the submitted information is directly related to an emergency medical technician and the requestor is conducting an investigation under chapter 773, we conclude section 773.0612 of the Health and Safety Code applies to the submitted information.

The department asserts the submitted information is excepted under section 552.101 of the Government Code in conjunction with common-law privacy and section 552.108 of the Government Code. We note statutes governing the release of specific information prevail over the general exceptions to disclosure found in the Act. *See* Open Records Decision Nos. 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information), 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Act). Further, statutory access provisions generally prevail over the common law. *See Collins v. Tex Mall, L.P.*, 297 S.W.3d 409, 415 (Tex. App.—Fort Worth 2009, no pet.) (statutory provision controls and preempts common law only when it directly conflicts with common-law principle); *see also Cash Am. Intern. Inc. v. Bennett*, 35 S.W.3d 12, 16 (Tex. 2000) (statute depriving person of common-law right will not be extended beyond its plain meaning or applied to cases not clearly within its purview). Because the requestor, in this instance, has a statutory right of access to the information at issue, the department may not withhold this information from the requestor pursuant to section 552.101 of the Government Code in conjunction with common-law privacy or section 552.108 of the Government Code.

We note the submitted information contains driver's license information subject to section 552.130 of the Government Code.<sup>1</sup> Section 552.130 excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country. Gov't Code § 552.130. The information we have marked is generally confidential under section 552.130 of the Government Code. As previously noted, a specific statutory right of access prevails over general exceptions to disclosure under the Act. ORD 451 at 4. Section 552.130 has its own access provisions, however, and is not a general exception under the Act. Accordingly, we find there is a conflict between the confidentiality provided by section 552.130 of the Government Code and the right of access afforded to the DSHS under section 773.0612 of the Health and Safety Code. Where general and specific provisions 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 that 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.). Section 773.0612 gives a general right of access to all information related to emergency medical services personnel being investigated by the DSHS. In contrast, section 552.130 makes information that relates to a driver's license confidential and contains

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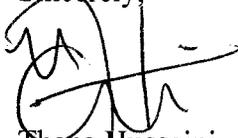
<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

its own release provisions. Gov't Code § 552.130. Therefore, we find the confidentiality provision of section 552.130 is more specific than the access provision of section 773.0612. Furthermore, section 552.130 was passed in a later legislative session than section 773.0612.<sup>2</sup> Therefore, because section 552.130 is the more specific statute and was enacted later in time, the department must withhold the driver's license information we have marked under section 552.130 of the Government Code. As you raise no further exceptions to disclosure, the remaining information must be released to this requestor.<sup>3</sup>

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](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,



Thana Hussaini  
Assistant Attorney General  
Open Records Division

TH/som

Ref: ID# 516172

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>Act of May 30, 1997, 75th Leg., R.S., ch. 1187, § 4, 1997 Tex. Gen. Laws 4575, 4580 (Vernon) (codified as section 552.130 of the Government Code).

<sup>3</sup>We note that because the requestor has a special right of access to this information in this instance, the department must again seek a decision from this office if it receives another request for the same information from another requestor.