



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 21, 2014

Mr. Douglas E. Postert  
Chief Deputy  
Uvalde County Sheriff's Office  
339 King Fisher Lane  
Uvalde, Texas 78801

OR2014-18925

Dear Mr. Postert:

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# 540254.

The Uvalde County Sheriff's Office (the "sheriff's office") received a request for all reports pertaining to a specified individual including a specified report. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101.<sup>1</sup> This section encompasses information protected by other statutes, such as section 261.201 of the Family Code, which provides, in part, as follows:

(a) [T]he following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

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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).

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). We conclude the submitted information consists of information used or developed in an investigation of alleged or suspected child abuse or neglect. *See id.* §§ 261.001 (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code), 101.003(a) (defining “child” for purposes of chapter 261 of the Family Code). Accordingly, we find this information is subject to chapter 261 of the Family Code. We have no indication the sheriff’s office has adopted a rule that governs the release of this type of information. Therefore, we assume no such regulation exists. Given that assumption, we conclude the submitted information is generally confidential pursuant to section 261.201 of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute). However, section 261.201(a) provides information encompassed by subsection (a) may be disclosed “for purposes consistent with [the Family Code] and applicable federal or state law.” Fam. Code § 261.201(a).

We note the requestor identifies herself as an investigator for the Texas Medical Board (the “board”). Section 153.006 of the Occupations Code provides in part that “[t]he board may receive criminal record reports from any law enforcement agency or another source regarding a license holder or license applicant.” Occ. Code § 153.006(a). In this instance, the board seeks access to criminal records pertaining to a licensed physician. If the sheriff’s office determines that release of this information is not consistent with the purposes of the Family Code, then the board does not have a right of access to the this information and it must be withheld in its entirety under section 552.101 in conjunction with section 261.201 of the Family Code. However, if the sheriff’s office determines that release of the submitted information is consistent with the purposes of the Family Code, then it must release the report to the board. Although you also seek to withhold this information under section 552.108 of the Government Code, the board’s statutory right of access to a licensed physician’s criminal records under section 153.006 prevails over general exceptions to disclosure under the Act. 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 Act). Accordingly, the sheriff’s office may not withhold the submitted information from this requestor under section 552.108 of the Government Code.

However, portions of the submitted information contain driver’s license information subject to section 552.130 of the Government Code. Section 552.130 provides 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 is excepted from public release. Gov’t Code § 552.130(a)(1).

Accordingly, we find the marked driver's license information is confidential under section 552.130 of the Government Code.

Thus, there is a conflict between the confidentiality provided by section 552.130 of the Government Code and the right of access provided by section 153.006 of the Occupations Code. As previously noted, a statutory right of access prevails over the Act's general exceptions to disclosure. *See* ORD Nos. 613 at 4, 451. However, because section 552.130 has its own access provisions, we conclude section 552.130 is not a general exception under the Act. *See* Gov't Code § 552.130(b) (information described by section 552.130(a) may only be released in manner authorized by chapter 730 of Transportation Code). 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 id.* § 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 153.006 generally provides the board access to criminal record reports regarding a license holder or license applicant. *See* Occ. Code § 153.006(a). However, section 552.130 specifically protects motor vehicle record information. *See* Gov't Code § 552.130. Furthermore, although section 153.006 was enacted later than section 552.130, there is no evidence the legislature intended section 153.006 to prevail over section 552.130. *See* Act of August 5, 1981, 67th Leg., 1st C.S., ch. 1, § 1, 1981 Tex. Gen. Laws 1, 7, 31. We therefore conclude, notwithstanding section 153.006, the sheriff's office must withhold the driver's license information marked under section 552.130 of the Government Code.<sup>2</sup>

In summary, if the sheriff's office determines that release of this information is not consistent with the purposes of the Family Code, then the board does not have a right of access to the submitted information and it must be withheld in its entirety under section 552.101 in conjunction with section 261.201 of the Family Code. If the sheriff's office determines that release of the submitted information is consistent with the purposes of the Family Code, then it must release the submitted information to the board. In this instance, the sheriff's office must withhold the driver's license information we have marked under section 552.130 of the Government Code. The remaining information must be released to this requestor pursuant to section 153.006 of the Occupations 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.

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<sup>2</sup>Should the sheriff's office receive another request for this same information from a person who would not have a right of access to the information, the sheriff's office should re-submit this information and request another decision. *See* Gov't Code §§ 552.301(a), .302.

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,



Ellen Webking  
Assistant Attorney General  
Open Records Division

EW/ac

Ref: ID# 540254

Enc. Submitted documents

c: Requestor  
(w/o enclosures)