



February 4, 2015

Ms. Sarah R. Martin
Assistant City Attorney
Arlington Police Department
Mail Stop 04-0200
P.O. Box 1065
Arlington, Texas 76004-1065

OR2015-02211

Dear Ms. Martin:

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# 552891 (APD Ref. No. 18029).

The Arlington Police Department (the "department") received a request for arrest or complaint records for cause number 000677682-01 pertaining to a named individual. You claim the requested 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 552.108(a)(1) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

You state the submitted information relates to a pending criminal case. Based on your representation and our review, we conclude the department has demonstrated the release of

the submitted information would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

Section 552.108, however, does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; *see also* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, the department may generally withhold the submitted information under section 552.108(a)(1) of the Government Code.

However, we note the requestor identifies himself 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 physician. Furthermore, 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 department 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.¹ 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

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

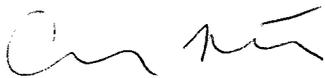
prevails as an exception to the general provision, unless the general provision was enacted later and there is clear evidence the legislature intended the general provision to prevail. *See id.* § 311.026(b); *City of Lake Dallas v. Lake Cities Mun. Util. Auth.*, 555 S.W.2d 163, 168 (Tex. Civ. App.—Fort 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 department must withhold the driver's license information we have marked under section 552.130 of the Government Code.

In summary, the department must withhold the driver's license information we have marked under section 552.130 of the Government Code. The department must release the remaining information to this requestor pursuant to section 153.006 of the Occupations 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 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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

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

Ref: ID# 552891

Enc. Submitted documents

c: Requestor
(w/o enclosures)