KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 3, 2015

Ms. Amy L. Sims
Deputy City Attorney
City of Lubbock
P.O. Box 2000
Lubbock, Texas 79457

OR2015-10880

Dear Ms. Sims:

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# 565765 (File No. 1121).

The Lubbock Police Department (the "department") received a request from an investigator with the Texas Education Agency (the "TEA") for all information pertaining to a named individual, including two specified cases. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code.[1] We have considered the exception you claim and reviewed the submitted information.

Initially, we note the requestor seeks all information pertaining to the named individual, including two specified cases. However, you have submitted only one of the specified cases for our review. To the extent any additional information responsive to the present request existed on the date the department received the request, we assume the department has released it. If the department has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

[1]Although you also raise section 552.101 of the Government Code, you provide no arguments or markings explaining how this exception is applicable. Therefore, we assume you no longer assert this exception. *See* Gov't Code §§ 552.301, .302.

Next, as previously stated, the requestor is an investigator for the TEA, which has assumed the duties of the State Board for Educator Certification (the "SBEC").[2] The requestor claims section 22.082 of the Education Code gives the SBEC a right to the requested information and states the requested information is related to a TEA investigation of an individual who has applied for or currently holds educator credentials.[3] Section 22.082 of the Education Code provides the SBEC "may obtain from any law enforcement or criminal justice agency all criminal history record information and all records contained in any closed criminal investigation file that relate to a specific applicant for or holder of a certificate." Educ. Code § 22.082. In this instance, you inform us the submitted information pertains to a concluded criminal investigation. Therefore, the TEA may obtain "all records contained" in the closed investigation file under section 22.082 of the Education Code. Accordingly, we find section 22.082 of the Education Code gives the TEA a statutory right of access to the submitted information. Although you seek to withhold this information under section 552.108 of the Government Code, we note a statutory right of access generally prevails over the exceptions to public disclosure under the Act. *See, e.g.*, 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 exception to disclosure under the Act). Thus, we conclude the department must generally release the submitted information to this requestor.

We note, however, the information being released contains information subject to section 552.130 of the Government Code, which provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130. Section 552.130 specifically protects motor vehicle record information and contains its own access provisions. Therefore, we find section 552.130 is not a general exception under the Act. Accordingly, the motor vehicle record information we have marked is generally confidential under section 552.130 of the Government Code.

Because the submitted information includes confidential information subject to section 552.130 of the Government Code, we must consider whether the requestor in this case, as a TEA investigator, may nevertheless obtain the submitted information. Section 22.082 of the Education Code authorizes the requestor to obtain the submitted information in its entirety, while section 552.130 of the Government Code excepts from disclosure portions of the submitted information; as such, we find section 22.082 of

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[2]The 79th Texas Legislature passed House Bill 1116, which required the transfer of SBEC's administrative functions and services to the TEA, effective September 1, 2005.

[3]The requestor also claims a right to the information at issue under sections 261.308 and 261.406 of the Family Code. However, these statutes apply to information held by the Department of Family and Protective Services, not the department. *See* Fam. Code §§ 261.308, .406.

the Education Code is in conflict with section 552.130 of the Government Code. Where information falls within both a general and specific provision of law, the specific provision prevails over the general. *See Horizon/CMS Healthcare Corp. v. Auld*, 34 S.W.3d 887, 901 (Tex. 2000) ("more specific statute controls over the more general"); *Cuellar v. State*, 521 S.W.2d 277 (Tex. Crim. App. 1975) (under well-established rule of statutory construction, specific statutory provisions prevail over general ones); ORD 451. Although section 22.082 of the Education Code generally allows a TEA investigator access to files of a closed criminal investigation, section 552.130 of the Government Code specifically protects motor vehicle record information. This section specifically permits release to certain parties and in circumstances that do not include the TEA representative's request in this instance. Therefore, we conclude, notwithstanding section 22.082 of the Education Code, the department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

In summary, the department must withhold the 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 22.082 of the Education Code.[4]

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,

Leah B. Wingerson

Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

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[4]Because the TEA has a right of access to certain information in the submitted documents that otherwise would be excepted from release under the Act, the department must again seek a decision from this office if it receives a request for this information from a different requestor without such a right of access.

Ref: ID# 565765

Enc. Submitted documents

c: Requestor
(w/o enclosures)