



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 31, 2015

Ms. Aimee Alcorn  
Assistant City Attorney  
Legal Department  
City of Corpus Christi  
P.O. Box 9277  
Corpus Christi, Texas 78469-9277

OR2015-18177

Dear Ms. Alcorn:

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# 577380 (CCPD File Number: HGod1).

The Corpus Christi Police Department (the "department") received a request for information pertaining to a specified arrest. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information. We have received and considered comments from the requestor. *See* Gov't Code § 552.304 (permitting interested third party to submit to attorney general reasons why requested information should or should not be released).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This section encompasses section 261.201(a) of the Family Code, which provides:

(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:

(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). The submitted information was used or developed in an investigation of alleged child abuse under chapter 261 of the Family Code. *See id.* § 261.001(1) (defining “abuse” for purposes of Family Code chapter 261); *see also id.* § 101.003(a) (defining “child” for purposes of this section as person under 18 years of age who is not and has not been married or who has not had disabilities of minority removed for general purposes). Thus, we find the information is generally confidential under section 261.201 of the Family Code. However, section 261.201(a) also provides that information encompassed by subsection (a) may be disclosed “for purposes consistent with [the Family Code] and applicable federal or state law[.]” *Id.* § 261.201(a). We note section 773.0612 of the Health and Safety Code constitutes “applicable state law” in this instance.

The requestor in this instance is a representative of the Texas Department of State Health Services (“DSHS”). The requestor has informed the department that DSHS seeks the information as part of an investigation of a named individual conducted under chapter 773 of the Health and Safety Code. Subchapter C of chapter 773 pertains to the licensing of emergency medical technicians by DSHS. *See* Health & Safety Code § 773.041 (person may not practice as any type of emergency medical services personnel unless certified by DSHS under chapter 773). Section 773.0612 of the Health and Safety Code provides:

(a) [DSHS] or its representative is entitled to access to records and other documents maintained by a person that are directly related to patient care or to emergency medical services personnel to the extent necessary to enforce this chapter and the rules adopted under this chapter. A person who holds a license or certification . . . is considered to have given consent to a representative of [DSHS] entering and inspecting a vehicle or place of business in accordance with this chapter.

(b) A report, record, or working paper used or developed in an investigation under this section is confidential and may be used only for purposes consistent with [DSHS] rules.

*Id.* § 773.0612. DSHS states the individual at issue is a licensed paramedic. Thus, we find the submitted documents are directly related to emergency medical services personnel for purposes of section 773.0612(a). DSHS states, and provides information reflecting, DSHS intends to use the submitted information for purposes consistent with chapter 773 of the

Health and Safety Code. Therefore, we determine the requestor has a statutory right of access to the information under section 773.0612(a) of the Health and Safety Code. Consequently, if the department determines DSHS intends to use the information for purposes consistent with the Family Code, the department must generally release the submitted information to the requestor. We note information obtained by DSHS pursuant to section 773.0612(a) is confidential in the hands of DSHS. *See id.* § 773.0612(b). If, however, the department determines DSHS does not seek this information for purposes consistent with the Family Code, the department must withhold the submitted information in its entirety pursuant to section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. *See* Attorney General Opinions DM-353 at 4 n.6 (1995) (finding interagency transfer of information prohibited where confidentiality statute enumerates specific entities to which release of information is authorized and where potential receiving governmental body is not among statute's enumerated entities), JM-590 at 4-5 (1986); *see also* Fam. Code § 261.201(b)-(g), (k) (listing entities authorized to receive 261.201 information); Open Records Decision Nos. 655 (1997), 650 (1996), 440 at 2 (1986) (predecessor statute).

If the department determines release is consistent with the Family Code, we will address your remaining argument against disclosure. Section 552.101 of the Government Code also encompasses article 57.02 of the Code of Criminal Procedure. Article 57.02 provides, in part:

(b) A victim may choose a pseudonym to be used instead of the victim's name to designate the victim in all public files and records concerning the offense, including police summary reports, press releases, and records of judicial proceedings. A victim who elects to use a pseudonym as provided by this article must complete a pseudonym form developed under this article and return the form to the law enforcement agency investigating the offense.

...

(h) Except as required or permitted by other law or by court order, a public servant or other person who has access to or obtains the name, address, telephone number, or other identifying information of a [sexual offense] victim younger than 17 years of age may not release or disclose the identifying information to any person who is not assisting in the investigation, prosecution, or defense of the case.

Crim. Proc. Code art. 57.02(b), (h). You state the victim at issue is under seventeen years of age and has submitted a pseudonym form to the department. We note the victim used a pseudonym in some of the submitted information, but the remaining information contains the identifying information of the victim. Based on your representation and our review, we find portions of the submitted information are confidential under article 57.02(h). As noted above, however, the requestor is a representative of DSHS and has a right of access to the

submitted information under section 773.0612 of the Health and Safety Code. Article 57.02(h) makes information confidential, “[e]xcept as required or permitted by other law[.]” *Id.* art. 57.02(h). In this instance, section 773.0612 is other law that requires release of the submitted information to this requestor. Accordingly, no portion of the submitted information may be withheld from this requestor under article 57.02(h).

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. A specific statutory right of access prevails over general exceptions to disclosure under the Act. Open Record Decision No. 451 at 4 (1986) (specific statutory right of access provisions generally prevail over the common law). 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 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 DSHS a general right of access to all information related to emergency medical services personnel being investigated by DSHS. In contrast, section 552.130 makes driver’s license and motor vehicle record information confidential and contains its own release provisions. *See* Gov’t Code § 552.130. Therefore, we find the confidentiality provided by section 552.130 is more specific than the general 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, if the department determines DSHS intends to use the information for purposes consistent with the Family Code, the department must withhold the driver’s license information we have marked under section 552.130 of the Government Code.

In summary, if the department determines DSHS does not seek this information for purposes consistent with the Family Code, the department must withhold the submitted information in its entirety pursuant to section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. If the department determines DSHS intends to use

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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).

<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).

the information for purposes consistent with the Family Code, then the department must withhold the driver's license information we have marked under section 552.130 of the Government Code and release the remaining information pursuant to section 773.0612 of the Health and Safety 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.

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,

A handwritten signature in black ink, appearing to read 'Cole Hutchison', with a long horizontal flourish extending to the right.

Cole Hutchison  
Assistant Attorney General  
Open Records Division

CH/som

Ref: ID# 577380

Enc. Submitted documents

c: Requestor  
(w/o enclosures)