



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 23, 2016

Ms. Victoria D. Honey
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102-6311

OR2016-06619

Dear Ms. Honey:

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# 602775 (ORR# W048313).

The Fort Worth Police Department (the "department") received a request for information pertaining to a named individual. The department claims the requested information is excepted from disclosure under sections 552.101, 552.108, 552.130, 552.137, and 552.147 of the Government Code.¹ We have considered the claimed exceptions and reviewed the submitted information.

Initially, we note the requestor is a representative of the Texas Department of State Health Services (the "DSHS"). In her request, the requestor states she is seeking the requested information as part of an investigation she 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 requestor asserts the submitted information pertains to an emergency medical technician

¹We understand you to raise section 552.137 of the Government Code based on your markings in the submitted information.

licensed under chapter 773 of the Health and Safety Code. She also 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 sections 552.108, 552.130, 552.137, and 552.147 of the Government Code.² 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. Int'l. 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). Therefore, the department may not withhold any of the submitted information from the requestor under section 552.101 of the Government Code in conjunction with common-law privacy or under section 552.108, 552.137, or 552.147 of the Government Code.

Section 552.130 of the Government Code 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. Thus, the submitted motor vehicle record information that the department has marked, as well as the information we have marked, are generally confidential under section 552.130. Accordingly, we must address the conflict between the access provided under section 773.0612 of the Health and Safety Code and the confidentiality provided under section 552.130 of the Government Code for this information.

Where information falls within both a general and a specific provision of law, the specific provision prevails over the general. *See* Gov't Code § 311.026 (where general statutory provision conflicts with specific provision, specific provision prevails as exception to general provision unless the general provision is the later enactment and the manifest intent is that the general provision prevail); *Cuellar v. State*, 521 S.W.2d 277 (Tex. Crim. App. 1975)

²Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision" and encompasses the doctrine of common-law privacy. Gov't Code § 552.101.

(under well-established rule of statutory construction, specific statutory provisions prevail over general ones). Section 773.0612 gives a general right of access to all information related to emergency medical services personnel being investigated by the DSHS, while section 552.130 specifically protects motor vehicle record information. Furthermore, section 552.130 was enacted after section 773.0612.³ In addition, because section 552.130 has its own access provisions, we conclude section 552.130 is not a general exception under the Act. *See* ORDs 613 at 4, 451 at 4. Therefore, we find the confidentiality provided by section 552.130 is more specific than the general right of access provided by section 773.0612. Accordingly, the department must withhold the information it has marked, and the additional information we have marked, under section 552.130 of the Government Code. The department must release the remaining information pursuant to section 773.0612 of the Health and Safety 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,



Michael A. Pearle
Assistant Attorney General
Open Records Division

MAP/bw

³*Compare* Act of May 30, 1997, 75th Leg., R.S., ch. 1187, § 4, 1997 Tex. Gen. Laws 4575, 4580 (codified as section 552.130 of the Government Code), *with* Act of March 25, 1991, 72nd Leg., R.S., ch. 14, § 264, 1991 Tex. Gen. Laws 42, 206 (codified as section 773.0612 of the Health and Safety Code).

⁴Because the requestor has a special right of access to the information being released, the department must again seek a decision from this office if it receives another request for the same information from another requestor.

Ref: ID# 602755

Enc. Submitted documents

c: Requestor
(w/o enclosures)