



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 3, 2016

Mr. Brendan W. Guy
Assistant Criminal District Attorney
County of Victoria
205 North Bridge Street, Suite 301
Victoria, Texas 77901-8085

OR2016-09964

Dear Mr. Guy:

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# 608253.

The Victoria County Sheriff's Office (the "sheriff's office") received a request for information regarding any service calls involving a named individual at a specified address during a specified time. You claim some of the submitted information is excepted from disclosure under section 552.130 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note some of the submitted information, which we have marked, is not responsive to the instant request for information because it does not pertain to the requested time period. This ruling does not address the public availability of any information that is not responsive to the request and the sheriff's office is not required to release such information in response to this request.

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. Upon review, we find the information you marked consists of motor vehicle record information for purposes of

section 552.130. Accordingly, the motor vehicle record information you marked is generally confidential under section 552.130 of the Government Code.

We note, however, the requestor is a representative of a child-placing agency that is licensed by the Texas Department of Family Protective Services (“DFPS”) in accordance with chapter 42 of the Human Resources Code, and the individual whose information he requested is a current or prospective foster parent. *See generally* Hum. Res. Code ch. 42. A child-placing agency must complete a foster home screening prior to verifying a foster home. *See* Hum. Res. Code § 42.042(a), (h)-(h-1) (executive commissioner of Health and Human Services Commission shall make rules to carry out provisions of chapter 42, including minimum standards for child-placing agencies). Further, child-placing agencies are required to evaluate a foster home for compliance with licensing rules in certain instances. *See* 40 T.A.C. § 749.2801. As part of the screening or evaluation, the agency must obtain certain information as set forth at section 749.2447. 40 T.A.C. §§ 749.2445(c)(1), .2471(1); *cf.* Hum. Res. Code § 42.0561 (providing in part that “[b]efore . . . a child-placing agency may issue a verification certificate for an agency foster home, the . . . child-placing agency must obtain information relating to each family violence report at the applicant’s residence to which a law enforcement agency responded during the 12 months preceding the date of the application. The applicant shall provide the information on a form prescribed by the department.”). Section 749.2447(7) provides a child-placing agency must obtain, document, and assess, in part, the following information:

The results of criminal history and central registry background checks conducted on the prospective foster parents[.] . . . With respect to law enforcement service call information, [the child-placing agency] *must do the following*:

(A) *Obtain service call information from the appropriate law enforcement agency for the prospective foster parents’ addresses for the past two years. Discuss with the prospective foster parents any service call information that [the child-placing agency] obtain[s] from a law enforcement agency and the facts surrounding the incident.*

. . .

(C) *Assess and document information obtained from law enforcement and any discussion with the prospective foster parents in the foster home screening.*

40 T.A.C. § 749.2447(7)(A), (C) (emphasis added); *see id.* §§ 749.2445(a), (c)(1), .2471(1); *see also id.* §§ 745.21(8) (defining “child-placing agency”), (32) (defining “permit”), (33) (defining “permit holder”), 749.41(1) (defining “you” as applicant or permit holder), .43 (words and terms in chapter 749 have meanings assigned under section 745.21). Thus,

section 749.2447(7) of title 40 of the Texas Administrative Code requires a child-placing agency to obtain all service call information for a two year period for service calls to the addresses of current or prospective foster parents from appropriate law enforcement agencies. *See id.* § 749.2447(7)(A), (C). Accordingly, we find a child-placing agency licensed by DFPS under chapter 42 of the Human Resources Code has a right of access to this information under section 749.2447(7) when it is obtained for the purpose of verifying a current or prospective foster home pursuant to the requirements of section 749.2445 or section 749.2471.

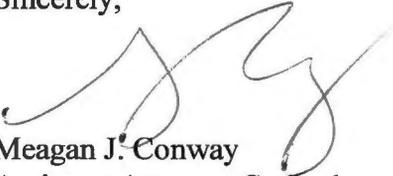
In this instance, the requestor is seeking reports involving a current or prospective foster parent at his residence, and the incident occurred during the previous two years. Accordingly, we conclude the requestor has a right of access to the submitted information pursuant to section 749.2447(7) of title 40 of the Texas Administrative Code. A statutory right of access generally prevails over the Act's general exceptions to disclosure. *See* Open Records Decision Nos. 613 at 4 (1993) (exceptions in Act cannot impinge in statutory right of access to information), 451 at 4 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Act). However, because section 552.130 of the Government Code has its own access provisions, section 552.130 is not a general exception under the Act. Therefore, we must address the conflict between the access provided under section 749.2447(7) and the confidentiality provided under section 552.130 of the Government Code. Where information falls within both a general and a specific statutory provision, the specific provision prevails over the general statute. *See* Gov't Code § 311.026 (where general statutory provision conflicts with specific provision, specific provision prevails as exception to general provision unless general provision is later enactment and manifest intent is that general provision prevails); *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). Although section 749.2447(7) generally allows a child-placing agency access to service call information, section 552.130 specifically protects motor vehicle record information. Thus, we find the confidentiality provided by section 552.130 is more specific than the right of access provided by section 749.2447(7). Accordingly, notwithstanding the statutory right of access granted to the requestor by section 749.2447(7) of title 40 of the Texas Administrative Code, the sheriff's office must withhold the marked motor vehicle record information under section 552.130 of the Government Code. The sheriff's office must release the remaining responsive information to this requestor pursuant to section 749.2447(7) of title 40 of the Texas Administrative Code.¹

¹Because the requestor has a special right of access to the information being released, the sheriff's office must again seek a decision from this office if it receives another request for the same information from another requestor.

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,



Meagan J. Conway
Assistant Attorney General
Open Records Division

MJC/akg

Ref: ID# 608253

Enc. Submitted documents

c: Requestor
(w/o enclosures)