



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 26, 2017

Ms. Judith N. Benton  
Assistant City Attorney  
City of Waco  
P.O. Box 2570  
Waco, Texas 76702-2570

OR2017-22028

Dear Ms. Benton:

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# 677833 (PIR No. LGL-17-094).

The Waco Police Department (the "department") received a request for all information pertaining to a named individual. You claim some of the submitted information is exempted from disclosure under sections 552.108 and 552.130 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>2</sup>

Section 552.108(a)(1) of the Government Code exempts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime if: (1) 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(a)(1) must explain how and why the release of the information at issue 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, 710 (Tex. 1977).

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<sup>1</sup>Although you do not raise section 552.130 in your brief, we understand you to raise this section based on your markings in the submitted information.

<sup>2</sup>We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

The department states the information it has marked relates to a pending criminal investigation or prosecution. Based on this representation, we conclude the release of the information at issue 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, 186-87 (Tex. Civ. App.—Houston [14th Dist.] 1975) (delineating law enforcement interests present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Therefore, we agree section 552.108(a)(1) is applicable to the submitted information.

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 the physician. Thus, the board’s statutory right of access to a licensed physician’s criminal records under section 153.006 prevails over the general exceptions to disclosure under the Act, such as section 552.108 of the Government Code. *See Open Records Decision No. 451 at 4 (1986)*. We therefore conclude that the board generally has a right of access to the submitted information under section 153.006 of the Occupations Code. *See Open Records Decision No. 613 at 4 (1993)* (exceptions in Act cannot impinge on statutory right of access to information). Accordingly, the department may not withhold any portion of the submitted information from this requestor under section 552.108.

However, the submitted records also contain motor vehicle record information subject to section 552.130 of the Government Code. Section 552.130 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(a)*. Accordingly, we find the motor vehicle record information you have marked is confidential under section 552.130 of the Government Code.

Thus, there is a conflict between the specific confidentiality provided to motor vehicle record information by section 552.130 and the general right of access provided by section 153.006. 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 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, section 552.130 was enacted later

than section 153.006. *See* Act of August 5, 1981, 67th Leg., 1st C.S., ch. 1, § 1, 1981 Tex. Gen. Laws 1, 7, 31 (enacting statutory predecessor to section 153.006); Act of June 20, 1997, 75th Leg., R.S., ch. 1187 § 4, 1997 Tex. Gen. Laws 4575, 4580 (enacting section 552.130). We therefore conclude, notwithstanding section 153.006, the department must withhold the motor vehicle record information you have marked under section 552.130 of the Government Code.

In summary, the department must withhold the motor vehicle record information you 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.<sup>3</sup>

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,



Britni Ramirez  
Assistant Attorney General  
Open Records Division

BR/gw

Ref: ID# 677833

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>3</sup>We note the requestor has a special right of access to the information being released. *See* Occ. Code § 153.006(a). Therefore, if the department receives another request for the same information from a different requestor, the department must again seek a ruling from this office.