



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 10, 2019

Ms. Pamela J. Denholm
Assistant City Attorney
Arlington Police Department
P. O. Box 1065
Arlington, Texas 76004-1065

OR2019-18659

Dear Ms. Denholm:

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# 774425 (ORR# 78448).

The Arlington Police Department (the "department") received a request for information pertaining to a specified arrest. The department claims the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

The requestor is an investigator for the Texas Medical Board (the "board"). Section 153.006(a) of the Occupations Code provides the 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 its request for information, the board represents it is seeking information regarding a license holder. *See id.* Therefore, the board 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). A statutory right of access prevails over the Act's general exceptions to public disclosure, including section 552.108 of the Government Code. *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 exception to disclosure under the Act). Therefore, the department must generally release the submitted information pursuant to section 153.006 of the Occupations Code.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.”¹ Gov’t Code § 552.101. This section encompasses chapter 560 of the Government Code, which provides a governmental body may not release fingerprint information except in certain limited circumstances. *See id.* §§ 560.001 (defining “biometric identifier” to include fingerprints), .002 (prescribing manner in which biometric identifiers must be maintained and circumstances in which they can be released), .003 (biometric identifiers in possession of governmental body exempt from disclosure under the Act). The department does not inform us, and the submitted information does not indicate, section 560.002 permits the disclosure of the submitted fingerprint information. Therefore, the department must withhold the submitted fingerprints, which we have marked, are generally confidential under section 552.101 of the Government Code in conjunction with section 560.003 of the Government Code.

Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle operator’s license, driver’s license, motor vehicle title, or registration issued by this state or another state or country. Gov’t Code § 552.130(a)(1), (2). Accordingly, the submitted motor vehicle record information, which we have marked, is generally confidential under section 552.130 of the Government Code.

Because section 552.130 has its own access provisions, 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). Thus, we must address the conflict between the confidentiality of section 552.130 of the Government Code and section 560.003 of the Government Code and the requestor’s right of access under section 153.006 of the Occupations 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 gives one specific requestor, the board, access to particular information relating to a license holder or license applicant. *See* Occ. Code § 153.006(a). However, section 552.130 of the Government Code specifically protects motor vehicle record information. *See* Gov’t Code § 552.130. In addition, section 560.003 of the Government Code specifically protects biometric identifiers. *See id.* § 560.003. Thus, sections 552.130 and 560.003 are more specific than section 153.006. Furthermore, sections 552.130 and 560.003 were enacted later than section 153.006. *See* Act of May 26, 2001, 77th Leg., R.S., ch. 634, § 2, 2001 Tex. Gen. Laws 1195, 1196 (codified as section 560.003 of Government Code); Act of June 20, 1997, 75th Leg., R.S., ch. 1187 § 4, 1997 Tex. Gen. Laws 4575, 4580 (enacting section 552.130); Act of August 5, 1981, 67th Leg., 1st C.S., ch. 1, § 1, 1981 Tex. Gen. Laws 1, 7,

¹The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body. *See* Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987).

31 (enacting statutory predecessors to section 153.006 of Occupations Code). Thus, the confidentiality under sections 552.130 and 560.003 of the Government Code prevails over the requestor's right of access under section 153.006 of the Occupations Code. Therefore, the department must withhold the information we have marked under section 552.130 of the Government Code and under section 552.101 of the Government Code in conjunction with section 560.003 of the Government Code. The department must release the remaining information in accordance with section 153.006 of the Occupations Code.²

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/jxd

Ref: ID# 774425

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²Because 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.