



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 20, 2020

Ms. Heather Silver
Assistant City Attorney
City of Dallas
1400 South Lamar, 6th Floor, 6W
Dallas, Texas 75215

OR2020-29200

Dear Ms. Silver:

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# 855144 (Ref. No. D010538-050420).

The Dallas Police Department (the "department") received a request for information pertaining to a named individual, including nine specified incidents. You state you will release some information to the requestor. 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 representative sample of information.¹

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes, such as section 261.201(a) of the Family Code, which provides, in part:

[T]he following information is confidential, is not subject to public release under [the Act] and may be disclosed only for purposes consistent with [the Family Code] and applicable federal or state law or under rules adopted by an investigating agency:

¹ We assume that 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.

(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). You state the submitted information was used or developed in an investigation of child abuse or neglect. Based on your representations and our review, we agree the submitted information is subject to section 261.201 of the Family Code. *See 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 the disabilities of minority removed for general purposes), 261.001(1) (defining “abuse” for purposes of chapter 261 of the Family Code). As you do not indicate the department has adopted a rule that governs the release of this type of information, we assume no such rule exists. Given that assumption, we find the submitted information is generally confidential pursuant to section 261.201 of the Family Code. *See Open Records Decision No. 440 at 2 (1986) (predecessor statute).*

However, we note the requestor is licensure analyst for the Texas Medical Board (the “board”). Section 153.006(a) of the Occupations Code constitutes applicable state law and provides “[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 an individual license holder. Thus, if the department determines the release of the submitted information would not be for purposes consistent with the Family Code, then the board does not have a right of access to this information and the department must withhold the submitted information in its entirety under section 552.101 in conjunction with section 261.201(a) of the Family Code. However, if the department determines the release of the submitted information would be for purposes consistent with the Family Code, then the department generally must release the information to the board pursuant to section 153.006(a). In that instance, we will consider whether the submitted information is otherwise excepted under the Act.

We note portions of the submitted information consist of motor vehicle record information subject to section 552.130 of the Government Code.² Section 552.130 provides 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 is excepted from public release. Gov’t Code § 552.130(a)(1). Accordingly, we find the department must generally withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

² 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).*

Thus, there is a conflict between the confidentiality provided by section 552.130 of the Government Code and the right of access provided by section 153.006 of the Occupations Code. A statutory right of access prevails over the Act's general exceptions to disclosure. *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 Act). 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.). Although section 153.006 provides the board access to criminal record reports regarding a license holder or license applicant, section 552.130 of the Government Code specifically protects motor vehicle record information. Furthermore, section 552.130 of the Government Code was enacted later than section 153.006. *See* Act of Aug. 5, 1981, 67th Leg., 1st C.S., ch. 1, § 1, 1981 Tex. Gen. Laws 1, 7 (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 we have marked under section 552.130 of the Government Code.

In summary, if the department determines the release of the submitted information would not be for purposes consistent with the Family Code, then the department must withhold the submitted information in its entirety under section 552.101 in conjunction with section 261.201(a) of the Family Code. If the department determines the release of the submitted information would be for purposes consistent with the Family Code, then the department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code and must release the remaining information to this requestor.³

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable

³We note the requestor has a right of access to some of the information being released. Thus, if the department receives another request for the same information from a different requestor, the department must again seek a decision from this office.

charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/be

Ref: ID# 855144

Enc. Submitted documents

c: Requestor
(w/o enclosures)