



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 8, 2022

Mr. Matthew E. Minick
County Attorney
Hardin County
P.O. Box 516
Kountze, Texas 77625

OR2022-03589

Dear Mr. Minick:

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# 930245.

The Hardin County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a specified incident. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the requestor is a representative of the Texas Department of State Health Services ("DSHS"). In her request, the requestor states she is seeking the requested information as part of an investigation DSHS is conducting pursuant to chapter 773 of the Health and Safety Code. Section 773.0612 of the Health and Safety Code provides 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 licensed under chapter 773 of the Health and Safety Code. The requestor 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. A statutory right of access prevails over the Act's general exceptions to public 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 exception to disclosure under the Act). In addition, a statutory right of access prevails over a claim under common-law privacy. *See Collins v. Tex. Mall, L.P.*, 297 S.W.3d 409,415 (Tex. App.—Fort Worth 2009, no pet.) (statutory provision controls and pre-empts common law only when statute directly conflicts with common-law principle); *see also Center Point Energy Houston Elec. LLC v. Harris County Toll Rd. Auth.*, 436 F.3d 541, 544 (5th Cir. 2006) (common law controls only where there is no conflicting or controlling statutory law). Therefore, the sheriff's office may not withhold any portion of the submitted information from this requestor under section 552.101 of the Government Code in conjunction with common-law privacy or section 552.108 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.¹ *See Gov't Code § 552.130*. Accordingly, we find the motor vehicle information we have marked is generally confidential under section 552.130 of the Government Code.

Because section 773.0612 of the Health and Safety Code authorizes the requestor to obtain the submitted information in its entirety and section 552.130 of the Government Code excepts from disclosure portions of the submitted information, we find section 773.0612 of the Health and Safety Code is in conflict with section 552.130 of the Government Code. Where information falls within both a general and a specific provision of law, the specific provision prevails over the general. *See id.* § 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 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). Section 773.0612 gives a general right of access to all information related to emergency medical services personnel being investigated by DSHS, while section 552.130 specifically protects motor vehicle record information. 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 sheriff's office must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

In summary, the sheriff's office must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. The sheriff's office must

¹ 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)*.

release the remaining information pursuant to section 773.0612 of the Health and Safety 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 <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 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,

Alexandra C. Burks
Assistant Attorney General
Open Records Division

ACB/ba

Ref: ID# 930245

Enc. Submitted documents

c: Requestor
(w/o enclosures)

² Because 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.