



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 28, 2012

Mr. Charles H. Weir
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR2012-10000

Dear Mr. Weir:

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# 457640 (COSA File No. W006859).

The City of San Antonio (the "city") received a request for all supplements and statements related to a specified offense number. You claim the submitted information is excepted from disclosure pursuant to section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

We note the requestor is a representative of the Office of the Attorney General (the "OAG"). Subchapter B of chapter 56 contains article 56.38 and is the Crime Victims' Compensation Act. Crim. Proc. Code art. 56.31. Article 56.38(d) provides:

On request by the [OAG], . . . a law enforcement agency shall release to the [OAG] all reports, including witness statements and criminal history record information, for the purpose of allowing the [OAG] to determine whether a claimant or victim qualifies for an award and the extent of the qualification.

Id. art. 56.38(d). The submitted information pertains to an investigation of aggravated robbery and aggravated assault by the city's police department. We understand the victim in the submitted information has filed an application with the Crime Victims' Compensation Program. Thus, the city must generally release the submitted information to the requestor pursuant to article 56.38(d) of the Code of Criminal Procedure.

We note some of the submitted information is subject to section 552.130 of the Government Code, which provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by an agency of this state or another state or country, is excepted from public release. Gov't Code § 552.130(a)(1). Upon review, we find the information we have marked is confidential under section 552.130.

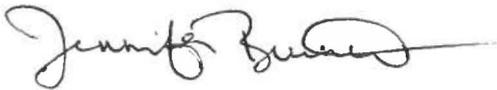
Although the information we have marked is confidential under section 552.130 of the Government Code, article 56.38(d) of the Code of Criminal Procedure gives the requestor a right of access to the submitted information. A statutory right of access generally prevails over the Act's general exceptions to disclosure. *See* Open Records Decision Nos. 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information), 451 at 4 (1986). However, because section 552.130 has its own access provisions, we conclude section 552.130 is not a general exception under the Act. Therefore, we must address the conflict between the confidentiality of section 552.130 of the Government Code and the right of access afforded to the OAG under article 56.38(d) of the Code of Criminal Procedure. Where general and specific provisions 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 that the legislature intended the general provision to prevail. *See* Gov't Code § 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.). Article 56.38(d) generally gives the OAG a right of access to reports it requests to determine the qualification and extent of an award to an individual who has filed an application for crime victim compensation. In contrast, section 552.130 specifically makes motor vehicle record information confidential. Thus, we find the confidentiality provision of section 552.130 prevails over the access provision of article 56.38(d). You also raise section 552.108 for the submitted information. In addition, portions of the submitted information are subject to section 552.136 of the Government Code. However, as noted above, a specific statutory right of access prevails over general exceptions to disclosure under the Act. *See* ORDs 613 at 4, 451. Additionally, although a portion of the submitted information is subject to common law privacy, we note a specific statutory right of access generally prevails over the common law. *See Cash Am. Int'l Inc. v. Bennett*, 35 S.W.3d 12, 16 (Tex. 2000) (statute abrogates common law principle only when its express terms or necessary implications clearly indicate Legislature's intent to do so and requires clear repugnance between common law and statutory causes of action); *CenterPoint Energy Houston Elec. LLC v. Harris County Toll Road*, 436 F.3d 541, 544 (5th Cir. 2006) (common law controls only where there is no conflicting or controlling statutory law). Therefore, the city must withhold the information we have marked under section 552.130 of the Government Code. The city must release the remaining information to the requestor pursuant to article 56.38(d) of the Code of Criminal Procedure.¹

¹Because this requestor has a right of access to information the city would be required to withhold from the general public, the city should request another decision if it receives another request for this same information from a different requestor. *See* Gov't Code §§ 552.301(a), .302.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/dls

Ref: ID# 457640

Enc. Submitted documents

c: Requestor
(w/o enclosures)