



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 29, 2012

Mr. David Hamilton  
City Attorney  
City of Reno  
3830 Farm Road 195  
Paris, Texas 75462-1621

OR2012-17233

Dear Mr. Hamilton:

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# 469427.

The Reno Police Department (the "department") received a request for information regarding the arrest of a specified individual. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the requestor is a representative of the Texas Department of State Health Services (the "DSHS"). The requestor has informed the department that the DSHS seeks the requested information as part of an investigation the DSHS is conducting pursuant to chapter 773 of the Health and Safety Code. Section 773.0612 of the Health and Safety Code provides the 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 DSHS states the submitted information pertains to an emergency medical technician licensed under chapter 773 of the Health and Safety Code. The DSHS 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.

The department asserts the submitted information is excepted under section 552.108 of the Government Code. However, this office has found that a specific statutory right of access prevails over general exceptions to disclosure under the Act. *See* Open Records Decision No. 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information), 451 at 4 (1986). Because the requestor in this instance has a statutory right of access to the information at issue, the department may not withhold this information from the requestor pursuant to section 552.108 of the Government Code.

We note the submitted information contains driver's license numbers and a license plate number subject to section 552.130 of the Government Code.<sup>1</sup> Section 552.130 excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit, or a motor vehicle title or registration issued by an agency of this state or another state or country. Gov't Code § 552.130. The information we have marked is generally confidential under section 552.130 of the Government Code. As previously noted, a specific statutory right of access prevails over general exceptions to disclosure under the Act. ORD 451 at 4. Section 552.130 has its own access provisions, however, and is not a general exception under the Act. Accordingly, we find there is a conflict between the confidentiality provided by section 552.130 of the Government Code and the right of access afforded to the DSHS under section 773.0612 of the Health and Safety Code. 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.). Section 773.0612 gives a general right of access to all information related to EMS personnel being investigated by the DSHS. In contrast, section 552.130 makes information that relates to a driver's license or license plate confidential and contains its own release provisions. Gov't Code § 552.130. Therefore, we find the confidentiality provision of section 552.130 is more specific than the access provision of section 773.0612. Furthermore, section 552.130 was passed in a later legislative session than section 773.0612.<sup>2</sup> Therefore, because section 552.130 is the more specific statute and was enacted later in time, the department must withhold the driver's license and license plate numbers we have marked under section 552.130 of the Government Code. As

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<sup>1</sup>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).

<sup>2</sup>Act of May 30, 1997, 75th Leg., R.S., ch. 1187, § 4, 1997 Tex. Gen. Laws 4575, 4580 (Vernon) (codified as section 552.130 of the Government Code).

you raise no further exceptions to disclosure, the remaining information must be released to this requestor.<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.oag.state.tx.us/open/index\\_orl.php](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,

A handwritten signature in cursive script that reads "Kathryn R. Mattingly". The signature is written in black ink and is positioned to the right of the typed name.

Kathryn R. Mattingly  
Assistant Attorney General  
Open Records Division

KRM/dls

Ref: ID# 469427

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>3</sup>We note that because the requestor has a special right of access to this information in this instance, the department must again seek a decision from this office if it receives another request for the same information from another requestor.