



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 3, 2016

Ms. Dawn Roberts  
Assistant City Attorney  
Arlington Police Department  
Mail Stop 04-0200  
P.O. Box 1065  
Arlington, Texas 76004-1065

OR2016-22113

Dear Ms. Roberts:

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# 628684 (Reference# 28237, 28462).

The Arlington Police Department (the "Department") received two separate requests for information pertaining to a specified incident. 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 representative sample of information.<sup>1</sup>

Section 552.108(a)(1) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted information

---

<sup>1</sup>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.

pertains to a pending investigation. Based on your representation, we conclude the release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, section 552.108(a)(1) is applicable to the submitted information.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of the basic information, which must be released, the department may generally withhold the submitted information under section 552.108(a)(1) of the Government Code.

We note, however, one of the requestors is with the Adult Protective Services (“APS”) division of the Texas Department of Family and Protective Services (“DFPS”). Under chapter 48 of the Human Resources Code, DFPS’s duties include the investigation of abuse, neglect, or exploitation in the provision of services to an elderly person. *See* Hum. Res. Code §§ 48.151, .152. Section 48.154(a) of the Human Resources Code provides as follows:

[DFPS] or another state agency, as appropriate, shall have access to any records or documents, including client-identifying information, financial records, and medical and psychological records, necessary to the performance of [DFPS]’s or state agency’s duties under this chapter. The duties include but are not limited to the investigation of abuse, neglect, or exploitation or the provisions of services to an elderly or person with a disability. A person, agency, or institution that has a record or document that [DFPS] or state agency needs to perform its duties under this chapter shall, without unnecessary delay, make the record or document available to [DFPS] or state agency that requested the record or document.

*Id.* § 48.154(a). We understand APS seeks the records at issue as part of an investigation. Consequently, we conclude DFPS requires this information in order to perform its duties under chapter 48 of the Human Resources Code, which include investigation of abuse, neglect, or exploitation of an elderly person. *See id.* §§ 48.151, .152, .154(a). Thus, the DFPS requestor generally has a right of access to the information pursuant to section 48.154. Although you raise section 552.108 of the Government Code, we note a specific statutory right-of-access provision prevails over the Act’s general exceptions to disclosure, such as section 552.108. *See, e.g.,* 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, because the requestor's statutory right of access prevails, the department may not withhold the submitted information from the DFPS requestor based on its argument under section 552.108 of the Government Code.

We note the submitted information includes motor vehicle record information subject to section 552.130 of the Government Code.<sup>2</sup> 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. *See Gov't Code § 552.130*. Accordingly, the department must generally withhold the motor vehicle record information we have marked under section 552.130.

However, as noted above, section 48.154 of the Human Resources Code provides the requestor with 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. 623 at 3 (1994), 525 at 3 (1989), 451 at 4*. We conclude, however, because section 552.130 of the Government Code has its own access provision, this section is not a general exception under the Act. *See Gov't Code § 552.130(b); see also Attorney General Opinions GA-0055 at 3-4 (2003)* (where statute specifically authorizes release of information under certain circumstances or to particular entities, that information may only be released or transferred in accordance therewith), *DM-353 at 4-5 n.6 (1995)* (detailed provisions in state law for disclosure of records would not permit disclosure "to other governmental entities and officials . . . without violating the record's confidentiality"), *JM-590 at 5 (1986)* ("express mention or enumeration of one person, thing, consequence, or class is tantamount to an express exclusion of all others"). Therefore, we must address the conflict between the access provided under section 48.154 and the confidentiality provided under section 552.130. Where information falls within both general and specific statutory provisions, the specific provision prevails over the general provision, unless the general provision was enacted later and there is clear evidence the legislature intended for the general provision to prevail. *See Gov't Code § 311.026* (where general statutory provision conflicts with specific provision, specific provision prevails as exception to general provision); *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); *Open Records Decision No. 583 at 2 (1990)* (specific statute stands as an exception or qualification to the more general). Although section 48.154 generally provides DFPS representatives with access to any information necessary to perform their duties under chapter 48 of the Human Resources Code, section 552.130 of the Government Code is specifically applicable only to motor vehicle record information. Thus, we find section 552.130 of the Government Code is more specific than the general right of access under section 48.154. Moreover, the statutory

---

<sup>2</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)*.

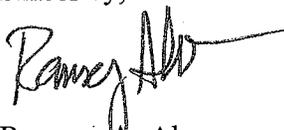
predecessor to section 48.154, former section 48.0835 of the Human Resources Code, was enacted prior to section 552.130 of the Government Code. *Compare* Act of May 30, 1997, 75th Leg., R.S., ch. 1187, § 4, 1997 Tex. Gen. Laws 4575, 4580 (enacting Gov't Code § 552.130) *with* Act of May 24, 1993, 73d Leg., R.S., ch. 651, § 1, 1993 Tex. Gen. Laws 2436 (enacting former Hum. Res. Code § 48.0835). Therefore, notwithstanding the provisions of section 48.154 of the Human Resources Code, the department must withhold the information we have marked under section 552.130 from the DFPS requestor.

In summary, except for information we marked under section 552.130 of the Government Code, which must be withheld, the submitted information must be released to the DFPS requestor pursuant to section 48.154 of the Human Resources Code. Except for basic information, which must be released, the submitted information may be withheld from the other requestor under section 552.108(a)(1) of the Government Code.

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](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,



Ramsey A. Abarca  
Assistant Attorney General  
Open Records Division

RAA/dls

Ref: ID# 628684

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)