



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 14, 2017

Ms. Melinda Brewer
Assistant District Attorney
Civil Division
Collin County
2100 Bloomdale Road, Suite 100
McKinney, Texas 75071

OR2017-13097

Dear Ms. Brewer:

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# 661820.

The Collin County District Attorney's Office (the "district attorney's office") received a request for information pertaining to a specified case. You claim the submitted information is excepted from disclosure under sections 552.101, 552.130, 552.137, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public 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 section 261.201 of the Family Code, which provides, in part, as follows:

(a) [T]he following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(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 pertains to an investigation of alleged or suspected child abuse or neglect. *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), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code). Accordingly, we find this information is subject to section 261.201 of the Family Code. There is no indication the district attorney’s office has adopted a rule that governs the release of this type of information. Therefore, we assume no such regulation exists. Given that assumption, we conclude the district attorney’s office must generally withhold the submitted information under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute).

We note the submitted information contains the fingerprints of the requestor’s client. Chapter 560 of the Government Code provides a governmental body may not release fingerprint information except in certain limited circumstances. *See* Gov’t Code §§ 560.001 (defining “biometric identifier” to include fingerprints), .002 (prescribing manner in which biometric identifiers must be maintained and circumstances in which they can be released), .003 (biometric identifiers in possession of governmental body exempt from disclosure under the Act). However, the requestor has a special right of access to his client’s own fingerprint information. *See id.* § 560.002(1).

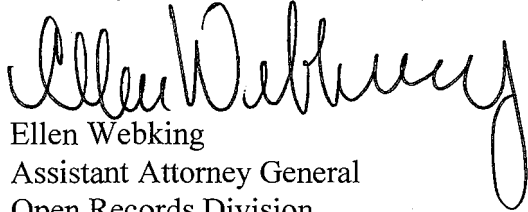
Consequently, there is a conflict between the confidentiality provided under section 261.201(a) of the Family Code and the access provided under section 560.002 of the Government Code. Where general and specific statutes are in irreconcilable conflict, the specific provision typically prevails as an 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.). Section 261.201(a) of the Family Code generally makes records of alleged child abuse or neglect confidential. However, section 560.002 of the Government Code applies specifically to biometric identifier information. Accordingly, we find the right of access provided to this requestor under section 560.002 of the Government Code prevails over the general confidentiality of section 261.201(a) of the Family Code. Thus, the district attorney’s office must release the fingerprints of the requestor’s client pursuant to section 560.002 of the Government Code, but must withhold the remaining information in its entirety under

section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.¹

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, 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,



Ellen Webking
Assistant Attorney General
Open Records Division

EW/bw

Ref: ID# 661820

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹As our ruling is dispositive, we need not address your arguments against disclosure of this information.