



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 15, 2017

Ms. Delietrice Henry
Open Records Assistant
City of Plano
P.O. Box 860358
Plano, Texas 75086-0358

OR2017-18589

Dear Ms. Henry:

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# 677388 (ORR# SYDH071317).

The Plano Police Department (the "department") received a request for blood test results related to a specified arrest. 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 only seeks the blood test results related to the specified arrest. Accordingly, the remaining information is not responsive to the instant request, and the department need not release non-responsive information in response to this request.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information made confidential by other statutes, such as section 261.201 of the Family Code, which provides, in relevant part:

(a) [T]he following information is confidential, is not subject to public release under [the Act], 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.

...

(k) Notwithstanding Subsection (a), an investigating agency, other than the [Texas Department of Family and Protective Services] or the Texas Juvenile Justice Department, on request, shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect, or to the child if the child is at least 18 years of age, information concerning the reported abuse or neglect that would otherwise be confidential under this section. The investigating agency shall withhold information under this subsection if the parent, managing conservator, or other legal representative of the child requesting the information is alleged to have committed the abuse or neglect.

Fam. Code § 261.201(a), (k). Upon review, we find the responsive information was used or developed in an investigation conducted under chapter 261 of the Family Code, so as to fall within the scope of section 261.201(a). *See id.* §§ 101.003(a) (defining “child” for purposes of section 261.201), 261.001(1), (4) (defining “abuse” and “neglect” for purposes of section 261.201 of Family Code). We note the requestor is a parent of the child victims listed in the submitted information, but the requestor is alleged to have committed the alleged abuse or neglect. Thus, the requestor does not have a right of access to the submitted information under section 261.201(k). *Id.* § 261.201(k). Accordingly, the department must generally withhold the responsive information under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.

However, we note the responsive information consists of the arrestee’s blood test results. Section 724.018 of the Transportation Code provides that, on the request of the person who has given a specimen at the request of a peace officer, full information concerning the analysis of the specimen must be made available to that person or the person’s attorney. *See* Transp. Code § 724.018. In this instance, the requestor is the person who provided the blood specimen at the request of a peace officer. Accordingly, we find the requestor generally has a right of access to his blood test results pursuant to section 724.018 of the Transportation Code.

Thus, although the responsive information is generally confidential under section 261.201(a) of the Family Code, section 724.018 provides the requestor with a right of access to the information pertaining to the analysis of the blood specimen obtained by a peace officer. Therefore, there is a conflict between the confidentiality provision of section 261.201(a) and the right of access provision of section 724.018. 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* 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.). In this instance, although section 261.201 of the Family Code generally makes records of alleged child abuse or neglect confidential, section 724.018 of the Transportation Code specifically requires release of information pertaining to the analysis of a breath specimen to certain parties. We therefore conclude the information pertaining to the analysis of a breath specimen may not be withheld from this requestor under section 261.201(a). Although you also raise section 552.108 for this information, a statutory right of access prevails over general exceptions to public disclosure under the Act. *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). Thus, the department must release the responsive information to this requestor pursuant to section 724.018 of the Transportation 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, 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,



Tim Neal
Assistant Attorney General
Open Records Division

TN/tdw

Ref: ID# 677388

Enc. Submitted documents

c: Requestor
(w/o enclosures)