



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 25, 2019

Mr. Ricardo Vela, Jr.
Assistant District Attorney
Dallas County
133 North Riverfront Boulevard, LB19
Dallas, Texas 75207-4399

OR2019-10945

Dear Mr. Vela:

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# 768161.

The Dallas County District Attorney's Office (the "district attorney's office") received a request for twenty-eight categories of information related to a specified prosecution file. You claim the submitted information is excepted from disclosure under sections 552.101, 552.103, 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information, portions of which consist of representative samples.¹

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 under section 261.201 of the Family Code, which provides, in part, as follows:

¹We assume that the "representative samples" of records submitted to this office are 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.

(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). Upon review, we find the submitted information was used or developed in 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. You have not indicated the district attorney’s office has adopted a rule governing the release of this type of information. Therefore, we assume no such regulation exists. Given that assumption, the submitted information is confidential under section 261.201(a) of the Family Code, and the district attorney’s office must generally withhold it under section 552.101 of the Government Code.

We note the submitted information includes a CR-3 accident report. Section 552.101 also encompasses information subject to chapter 550 of the Transportation Code. Section 550.065 applies only to a written report of an accident required under section 550.061, 550.062, or 601.004. Transp. Code § 550.065(a)(1). Chapter 550 requires the creation of a written report when the accident resulted in injury to or the death of a person or damage to the property of any person to the apparent extent of \$1,000 or more. *Id.* §§ 550.061 (operator’s accident report), .062 (officer’s accident report). An accident report is privileged and for the confidential use of the Texas Department of Transportation or a local governmental agency of Texas that has use for the information for accident prevention purposes. *Id.* § 550.065(b). However, a governmental entity shall release an accident report in accordance with subsections (c) and (c-1). *Id.* § 550.065(c), (c-1). Section 550.065(c) provides a governmental entity shall release an accident report to a person or entity listed under this subsection. *Id.* § 550.065©.

In this instance, the requestor is a person listed under section 550.065(c). Although you assert sections 552.103 and 552.108 to withhold the accident report at issue, a statutory right of access prevails over the Act’s general exceptions to public disclosure. *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). Because sections 552.103 and 552.108 are general exceptions under the Act, the requestor's statutory access under section 550.065(c) prevails, and the district attorney's office may not withhold the information under section 552.103 or section 552.108 of the Government Code. Additionally, although you also raise section 552.101 in conjunction with common-law privacy, we note a specific statutory right of access overcomes the common law. *See Collins v. Tex Mall, L.P.*, 297 S.W.3d 409, 415 (Tex. App.—Fort Worth 2009, no pet.) (statutory provision controls and preempts common law only when statute directly conflicts with common-law principle). Therefore, no portion of the submitted accident report may be withheld under section 552.101 of the Government Code on the basis of common-law privacy.

However, as noted above, the submitted information is generally confidential under section 261.201 of the Family Code. Additionally, you assert the motor vehicle record information within the accident report is confidential under section 552.130 of the Government Code. Thus, we must address the conflicts between the confidentiality provided under section 261.201(a) of the Family Code and section 552.130 of the Government Code and the right of access provided under section 550.065(c) of the Transportation Code for the accident report at issue. Where information falls within both a general and a specific provision of law, the specific provision prevails over the general. *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.); *see also Horizon/CMS Healthcare Corp. v. Auld*, 34 S.W.3d 887, 901 (Tex. 2000) (“more specific statute controls over the more general”); *Cuellar v. State*, 521 S.W.2d 211 (Tex. Crim. App. 1975) (under well-established rule of statutory construction, specific statutory provisions prevail over general ones); Open Records Decision Nos. 598 (1991), 583 (1990), 451. Section 550.065(c) specifically provides access only to accident reports of the type at issue. However, section 261.201(a) generally pertains to all records of alleged or suspected child abuse or neglect and section 552.130 generally excepts motor vehicle record information maintained in any context. Additionally, we note section 550.065(c) is the later enacted statute. *See Gov't Code § 311.025(a)* (if statutes enacted at different sessions of legislature are irreconcilable, the statute latest in enactment prevails). Therefore, we find section 550.065(c) is more specific than, and prevails over, the confidentiality provided under section 261.201(a) of the Family Code and section 552.130 of the Government Code. Therefore, the district attorney's office may not withhold any portion of the accident report under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code or under section 552.130 of the Government Code. Accordingly, the district attorney's office must release the submitted accident report pursuant to section 550.065(c) of the Transportation Code. The district attorney's office must withhold the remaining information under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family 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,

A handwritten signature in black ink, appearing to read 'Tim Neal', written in a cursive style.

Tim Neal
Assistant Attorney General
Open Records Division

TN/mo

Ref: ID# 768161

Enc. Submitted documents

c: Requestor
(w/o enclosures)