



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 12, 2019

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

OR2019-18885

Dear Ms. Ortiz:

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# 774944 (PIR# P001020-042919).

The City of Plano (the "city") received a request for a police report pertaining to a specified incident. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

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. Section 552.101 encompasses statutes that make information confidential, such as section 261.201(a) of the Family Code, which provides as follows:

(a) Except as provided by Section 261.203, the 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.

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 under chapter 261. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code); *see also id.* § 101.003(a) (defining “child” for purposes of chapter 261). Thus, the submitted information is subject to section 261.201. As you do not indicate the city has adopted a rule that governs the release of this type of information, we assume no such rule exists. Given that assumption, we conclude the submitted information is generally confidential under section 261.201(a) of the Family Code.

However, section 261.201 provides information encompassed by subsection (a) may be disclosed “for purposes consistent with [the Family Code] and applicable federal or state law.” *Id.* § 261.201(a). Subchapter E of chapter 264 of the Family Code concerns the establishment and duties of children’s advocacy centers. *See id.* §§ 264.401-411. Section 264.405 of the Family Code directs children’s advocacy centers to provide services for victims of child abuse and their families. *Id.* § 264.405. Furthermore, section 264.408(c) of the Family Code provides “a law enforcement agency . . . may share with a [children’s advocacy] center information that is confidential under Section 261.201 as needed to provide services” under chapter 264 of the Family Code. *Id.* § 264.408(c).

In this instance, the requestor is a representative of the Court Appointed Special Advocates (“CASA”). However, the requestor does not state whether the requested report is sought for the purposes of providing services under chapter 264 of the Family Code. Therefore, we must rule conditionally. If the city determines the information subject to section 261.201 is not needed to provide services under chapter 264, then it may not release the information on that ground, and the city must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. If, however, the city determines the information at issue is needed to provide services under chapter 264 of the Family Code, then the city generally has the discretion to release the information at issue to this requestor pursuant to section 264.408(c). We note information shared with or provided to CASA under section 264.408(c) retains its confidentiality under section 261.201(a) of the Family Code. *See id.* We note the requestor’s specific statutory right of access prevails over the general exceptions in the Act. *See* Open Records Decisions Nos. 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information), 451 at 4 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Act.).

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.¹ *See* Gov't Code § 552.130. Upon review, we find the information we have marked is motor vehicle record information that is generally confidential under section 552.130 of the Government Code. We note section 552.130 is not a general exception under the Act because it has its own access provisions. *See* ORDs 613 at 4, 451 at 4.

Thus, if the city determines the information at issue is needed to provide services under chapter 264 of the Family Code, there is a conflict between the confidentiality provision found in section 552.130 of the Government Code and the access provided by section 264.408 of the Family Code. 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 that the legislature intended the general provision to prevail. *See* Gov't Code § 311.026(b); *Cuellar v. State*, 521 S.W.2d 277 (Tex. Crim. App. 1975). Section 552.130 of the Government Code specifically protects motor vehicle record information and contains its own release provisions. In contrast, section 264.408 allows designated types of entities to share with child advocacy centers information that is confidential under section 261.201 as needed to provide services under chapter 264 of the Family Code. *See* Fam. Code § 264.408(c). Accordingly, in this instance, we find section 552.130 of the Government Code is a more specific statute than section 264.408 of the Family Code. Thus, section 552.130 of the Government Code prevails over section 264.408 of the Family Code. Therefore, if the city determines release of the submitted information is needed to provide services under chapter 264 of the Family Code, it has the discretion to release the information at issue to this requestor pursuant to section 264.408(c), but must withhold the information we have marked under section 552.130 of the Government Code.

In summary, if the city determines the information is needed to provide services under chapter 264 of the Family Code, then the city has the discretion to release the submitted information to this requestor pursuant to section 264.408(c) of the Family Code. However, in releasing the submitted information, the city must withhold the information we have marked under section 552.130 of the Government Code. If, however, the city determines the submitted information is not needed to provide services under chapter 264 of the Family Code, then the city must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.

¹The 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).

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,



Kelly McWethy
Assistant Attorney General
Open Records Division

KSM/be

Ref: ID# 774944

Enc. Submitted documents

c: Requestor
(w/o enclosures)