



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 12, 2019

Ms. Chelsey Heil
Records Supervisor
Leander Police Department
705 Leander Drive
Leander, Texas 78641

OR2019-25666

Dear Ms. Heil:

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# 785614.

The Leander Police Department (the "department") received three requests from different requestors for information pertaining to a specified incident. You claim the submitted information is excepted from disclosure under section 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note some of the submitted information consists of officer's body worn camera recordings. Body worn cameras are subject to chapter 1701 of the Occupations Code. Chapter 1701 provides the procedures a requestor must follow when seeking a body worn camera recording. Section 1701.661(a) provides:

A member of the public is required to provide the following information when submitting a written request to a law enforcement agency for information recorded by a body worn camera:

- (1) the date and approximate time of the recording;
- (2) the specific location where the recording occurred; and
- (3) the name of one or more persons known to be a subject of the recording.

Occ. Code § 1701.661(a). In this instance, the third requestor does not give the requisite information under section 1701.661(a). As the third requestor did not properly request the body worn camera recordings at issue pursuant to chapter 1701, it need not be released to the third requestor.¹ However, pursuant to section 1701.661(b), a “failure to provide all the information required by Subsection (a) to be part of a request for recorded information does not preclude the requestor from making a future request for the same recorded information.” *Id.* § 1701.661(b). With respect to the first and second requestors, who properly requested the body worn camera recordings at issue, we will consider the department’s arguments against disclosure of this information.

Section 552.101 of the Government Code exempts 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 section 261.201 of the Family Code, which provides as follows:

(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.

¹As we are able to make this determination, we need not address the argument against disclosure of this information.

Fam. Code § 261.201(a), (k). Upon review, we find the information at issue was used or developed in an investigation of alleged or suspected child abuse or neglect. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of Family Code chapter 261); *see also 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 disabilities of minority removed for general purposes). Thus, the submitted information is subject to section 261.201. Accordingly, the department must generally withhold the submitted information from the second and third requestors 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 first requestor is an attorney representing a parent of the child victim listed in the information. However, the first requestor’s client is alleged to have committed the abuse or neglect. Thus, the first requestor does not have a right of access to the information at issue under section 261.201(k). *See id.* § 261.201(k). Accordingly, the department must generally withhold the submitted information from the first requestor under section 552.101 of the Government Code in conjunction with section 261.201(k) of the Family Code.

We note the remaining information includes a CR-3 accident report. 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. Transp. Code §§ 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 may 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(c).


In this instance, the requestors are all persons listed under section 550.065(c). Therefore, the requestors have a right of access to the submitted accident report. Thus, we must address the conflict between the confidentiality provided under section 261.201(a) of the Family Code and the right of access provided under section 550.065(c) of the Transportation 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 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(a) generally pertains to all records of alleged or suspected child abuse or neglect, section 550.065(c) specifically pertains to accident reports. Therefore, we find section 550.065(c) is more specific than, and prevails over, section 261.201(a). Therefore, the department must release the CR-3 accident report to each requestor pursuant to section 550.065(c) of the Transportation Code.

In summary, as the third requestor did not properly request the body worn camera recordings at issue pursuant to chapter 1701, it need not be released to the third requestor. The department must release the CR-3 accident report to each requestor pursuant to section 550.065(c) of the Transportation Code. The department must withhold the remaining information under section 552.101 of the Government Code in conjunction with section 261.201 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,


Jennifer Copeland
Assistant Attorney General
Open Records Division

JC/gw

Ref: ID# 785614

Enc. Submitted documents

c: 3 Requestors
(w/o enclosures)

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