



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 3, 2020

Ms. Rita Monterrosa  
Litigation Paralegal  
City of Abilene  
P. O. Box 60  
Abilene, Texas 79604-0060

OR2020-06681

Dear Ms. Monterrosa:

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# 814261(PIR No. 19-1223).

The City of Abilene (the "city") received a request for information pertaining to a specified incident involving a named individual. 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. This section encompasses information made confidential by other statutes, such as section 261.201(a) 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.

Fam. Code § 261.201(a). The submitted information was used or developed in an investigation of alleged or suspected child abuse. *See id.* § 261.001(1) (defining “abuse” 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). Accordingly, we find this information falls within the scope of section 261.201 of the Family Code. You have not indicated the city’s police department (the “department”) 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 city must generally withhold the submitted information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. *See Open Records Decision No. 440 at 2 (1986) (addressing predecessor statute).*

You ask whether the submitted information can be provided to the requestor through an intergovernmental transfer. This office has concluded information subject to the Act may be transferred between governmental bodies without waiving exceptions to the public disclosure of that information or affecting its confidentiality. *See Attorney General Opinion JM-590 (1986); Open Records Decision Nos. 655 (1997), 567 (1990), 561 (1990).* These decisions are based on the well-settled policy of this state that governmental agencies should cooperate with each other in the interest of the efficient and economical administration of their statutory duties. *See Open Records Decision. No. 516 (1989).* However, the transfer of confidential information from one governmental body to another is prohibited where the relevant confidentiality statute authorizes release of the confidential information only to specific entities, and the requesting governmental body is not among the statute’s enumerated entities. *See Attorney General Opinions DM-353 at 4 n.6 (1995) (intergovernmental transfer permitted under statutory confidentiality provision only where disclosure to another governmental agency is required or authorized by law), JM-590 at 4-5 (1986) (where governmental body is not included among expressly enumerated entities to which confidential information may be disclosed, information may not be transferred to that governmental body); see also Open Records Decision Nos. 655 (1997), 650 (1996) (transfer of confidential information to federal agency impermissible unless federal law requires its disclosure).* Section 261.201 of the Family Code is a confidentiality statute with its own release provisions. Therefore, the city may not provide any of the submitted information to the requestor through an intergovernmental transfer.

We note the requestor is a representative of the Office of the Attorney General (the “OAG”). The requestor states he is requesting the information pursuant to article 56.38(d) of the Code of Criminal Procedure. Subchapter B of chapter 56, which contains article 56.38, is the Crime Victims’ Compensation Act. Crim. Proc. Code art. 56.31. Article 56.38(d) provides:

On request by the [OAG], . . . a law enforcement agency shall release to the [OAG] all reports, including witness statements and criminal history record information, for the purpose of allowing the [OAG] to determine whether a claimant or victim qualifies for an award and the extent of the qualification.

*Id.* art. 56.38(d). The submitted information pertains to a sexual assault investigation by the department. The requestor states the victim in the submitted information has filed an application with the Crime Victims' Compensation Program. Thus, we conclude the city must generally release the submitted information to the requestor pursuant to article 56.38(d) of the Code of Criminal Procedure.

Although the submitted information is confidential under section 261.201(a) of the Family Code, article 56.38(d) of the Code of Criminal Procedure gives the requestor a right of access to the submitted information. Therefore, there is a conflict between the confidentiality of section 261.201 of the Family Code and the right of access afforded to the OAG under article 56.38(d) of the Code of Criminal Procedure. Where general and specific provisions 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 that 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 generally pertains to all records of alleged or suspected child abuse or neglect, article 56.38(d) specifically requires release of reports requested by the OAG to determine the qualification and extent of an award to an individual who has filed an application for crime victim compensation. Accordingly, article 56.38(d) prevails over section 261.201. Therefore, the city may not withhold the information at issue from this requestor under section 552.101 in conjunction with section 261.201 of the Family Code.

Some of the submitted information is subject to section 552.130 of the Government Code.<sup>1</sup> 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. *See Gov't Code § 552.130.* Upon review, we find the city must generally withhold the information we marked under section 552.130 of the Government Code.

Therefore, because the requestor has a statutory right of access to the submitted information pursuant to article 56.38(d) of the Code of Criminal Procedure, we must now address the conflict between the access provided under article 56.38(d) of the Code of Criminal Procedure and the confidentiality provided under section 552.130 of the Government Code. Article 56.38(d) generally gives the OAG a right of access to all reports it requests to determine the qualification and extent of an award to an individual who has filed an application for crime victim compensation. In contrast, section 552.130 of the Government Code specifically protects motor vehicle record information. Although a specific statutory right of access prevails over general exceptions to disclosure under the Act, because section 552.130 has its own access provisions, we conclude section 552.130 is not a general exception under the Act. Thus, we find the confidentiality provision of section 552.130 is more specific than the general right of access provided by article 56.38(d) of the Code of

---

<sup>1</sup> The 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).*

Criminal Procedure. Additionally, although the submitted information is subject to common law privacy, we note a specific statutory right of access generally prevails over 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); *CenterPoint Energy Houston Elec. LLC v. Harris County Toll Rd.*, 436 F.3d 541, 544 (5th Cir. 2006) (common law controls only where there is no conflicting or controlling statutory law). Therefore, the city must withhold the information we marked under section 552.130 of the Government Code. The city must release the remaining information to the requestor pursuant to article 56.38(d) of the Code of Criminal Procedure.

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,



Britni Ramirez  
Assistant Attorney General  
Open Records Division

BR/gw

Ref: ID# 814261

Enc. Submitted documents

c: Requestor  
(w/o enclosures)