



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 13, 2020

Ms. Andrea D. Russell  
Counsel for the Town of Flower Mound  
Taylor Olson Adkins Sralla Elam LLP  
6000 Western Place, Suite 200  
Fort Worth, Texas 76107

OR2020-08044

Dear Ms. Russell:

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# 817210.

The Town of Flower Mound (the “town”), which you represent, received a request for all reports related to two named individuals during a specified time period. The town states it will withhold motor vehicle record information pursuant to section 552.130(c) of the Government Code.<sup>1</sup> The town claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception the town claims 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 section 261.201(a) of the Family Code, which provides as follows:

[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:

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<sup>1</sup> Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov’t Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

(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 or neglect conducted by the town's police department. *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 generally confidential under section 261.201(a) of the Family Code. We note the requestor in this instance is an investigator with the Child Protective Services Division of the Texas Department of Family and Protective Services ("DFPS"). Section 261.105(a) of the Family Code provides, "[a]ll reports received by a local or state law enforcement agency that allege abuse or neglect by a person responsible for a child's care, custody, or welfare shall be referred immediately to [DFPS]." *See id.* § 261.105(a). The person suspected of child abuse or neglect in the submitted report was responsible for the child victim's care, custody, or welfare. *See id.* § 261.001(5)(B) (person responsible for child's care, custody, or welfare includes a member of child's family or household as defined by Family Code chapter 71). We note a statutory right of access generally prevails over the Act's general exceptions to disclosure, as well as the common-law. *See Open Records Decision Nos. 613 at 4, 451 at 4; see also CenterPoint Energy Houston Elec. LLC v. Harris County Toll Road*, 436 F.3d 541, 544 (5th Cir. 2006) (common law controls only where there is no conflicting or controlling statutory law); Attorney General Opinion GA-0290 at 4 (2005) (noting valid rules of administrative agencies have the same "force and effect of legislation"). Accordingly, the requestor has a right of access to the submitted information pursuant to section 261.105(a) of the Family Code. *See Attorney General Opinion No. GA-0879 (2011)* (law enforcement agency is required to furnish information about alleged child abuse or neglect by person responsible for child's care, custody, or welfare to DFPS). Therefore, the town may not withhold the information from this requestor under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. The town must release the information to this requestor.<sup>2</sup>

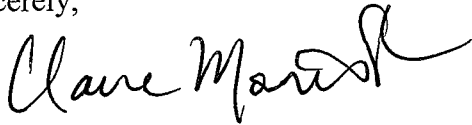
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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<sup>2</sup> The requestor has a right of access to the information being released. If the town receives another request for this information from a different requestor, the town must again seek a ruling from this office. *See Gov't Code* §§ 552.301, .302; *Open Records Decision No. 673 (2001)*.

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,

A handwritten signature in black ink that reads "Claire V. Morris Sloan". The signature is written in a cursive, flowing style.

Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/be

Ref: ID# 817210

Enc. Submitted documents

c: Requestor  
(w/o enclosures)