KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 23, 2020

Mr. Thomas McMillian
Assistant City Attorney
City of Amarillo
200 Southeast Third Avenue, Fourth Floor
Amarillo, Texas 79101

OR2020-08882

Dear Mr. McMillian:

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# 818377 (ORR# 20-68).

The Amarillo Police Department (the "department") received a request for report numbers 20180530038 and 20180530026. The department claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception the department claims and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by section 261.201 of the Family Code, which provides, in part, as follows:

> (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
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> > (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 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 subject to chapter 261 of the Family Code. The department states it has not adopted a rule that governs the release of this type of information. Given that assumption, we conclude the department 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) (predecessor statute).

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." Fam. Code § 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).

The requestor is a representative of CASA of Amarillo ("CASA"). However, the requestor does not state whether the requested information is sought for the purposes of providing services under chapter 264 of the Family Code. Therefore, we must rule conditionally. If the department determines the submitted information is not needed to provide services under chapter 264, then it must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. However, if the department determines the information at issue is needed to provide services under chapter 264 of the Family Code, then the department generally may release the submitted information 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.*

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. Thus, the department must

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[1] The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987).

generally withhold the motor vehicle record information we marked under section 552.130 of the Government Code.

Generally, 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.). However, because section 552.130 has its own access provisions, section 552.130 is not a general exception under the Act. *See* Gov't Code § 552.130(b) (information described by section 552.130(a) may only be released in manner authorized by chapter 730 of Transportation Code). Thus, we must address the conflict between the confidentiality of section 552.130 and the requestor's potential right of access under section 264.408(c) 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 id.* § 311.026(b); *Cuellar v. State*, 521 S.W.2d 277 (Tex. Crim. App. 1975 (under well-established rule of statutory construction, specific statutory provisions prevail over general ones). 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). Thus, we find section 552.130 of the Government Code is a more specific statute than section 264.408 of the Family Code. Therefore, the department must withhold the information we marked under section 552.130 of the Government Code.

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

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/jxd

Ref: ID# 818377

Enc. Submitted documents

c: Requestor
(w/o enclosures)