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ATTORNEY GENERAL OF TEXAS

June 29, 2022

Mr. James Kopp
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City of San Antonio
P.O. Box 839966
San Antonio, Texas 78207

OR2022-18860

Dear Mr. Kopp:

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# 955948 (ORR# W437336).

The San Antonio Police Department (the "department") received a request for records related to a specified incident involving named individuals. The department claims the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exception the department claims and reviewed the submitted representative sample of information.¹

Initially, we note the submitted information includes police officers' 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 provides, in relevant part, the following:

(a) 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

¹ We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

(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 requestor does not provide the requisite information under section 1701.661(a). As the body worn camera recordings at issue were not properly requested pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information and it need not be released. However, pursuant to section 1701.661(b), a “failure to provide all the information required by [s]ubsection (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).

Section 552.101 of the Government Code exempts 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

(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 does not indicate it has adopted a rule that governs the release of this type of information and therefore we assume no such regulation exists. Given that assumption, we conclude the department must generally withhold the remaining 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.” *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 262.201 as needed to provide services” under chapter 264 of the Family Code. *Id.* § 264.408(c).

In this instance, the requestor states she is a court-appointed child advocate. However, the requestor does not state whether she seeks the requested information for the purposes of providing services under chapter 264 of the Family Code. Therefore, we must rule conditionally. If the department determines the information at issue is not needed to provide services under chapter 264, then the department may not release the information on that ground, and the department must withhold the remaining 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 has the discretion to release the remaining information to this requestor pursuant to section 264.408(c). Although the department also raises section 552.108 of the Government Code for the information, the requestor’s specific statutory right of access prevails over the general exceptions in the Act. *See* Open Records Decision 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). We note any information shared with or provided to this requestor under section 264.408(c) retains its confidentiality under section 261.201(a) of the Family Code. *See id.* However, we must address additional exceptions to disclosure of the information at issue.

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 county is excepted from public release.² *See* Gov’t Code. Section 552.130 is not a general exception under the Act because it has its own access provision. *See* ORDs 613 at 4, 451 at 4. Upon review, we find the department must generally withhold all motor vehicle record information within the remaining information, including all driver’s license numbers and states of issuance as well as all visible license plates within the requested video recordings, under section 552.130 of the Government Code.

Thus, there is a conflict between the confidentiality provisions found in section 552.130 of the Government Code and the requestor’s potential right of 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 (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

² 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).

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, we find section 552.130 of the Government Code is more specific statute than, and prevails over, section 264.408 of the Family Code. Therefore, the department must withhold the motor vehicle record information at issue under section 552.130 of the Government Code.

In summary, the submitted body worn camera recordings were not properly requested pursuant to chapter 1701 of the Occupations Code and they need not be released. If the department determines the remaining information is not needed to provide services under chapter 264 of the Family Code, then the department must withhold the remaining information in its entirety 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 is needed to provide services under chapter 264 of the Family Code, then the department has the discretion to release the remaining information to this requestor pursuant to section 264.408(c) of the Family Code; however, in releasing any such information, the department must withhold all motor vehicle record information, including all driver's license numbers and states of issuance as well as all visible license plates within the requested video recordings, 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/mo

Ref: ID# 955948

c: Requestor