



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 15, 2022

Ms. Amanda K. Davis  
Counsel for the City of McKinney  
Brown & Hofmeister, L.L.P.  
740 East Campbell Road, Suite 800  
Richardson, Texas 75081

OR2022-24223

Dear Ms. Davis:

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# 965926 (Ref. No. P23239).

The McKinney Police Department (the "department"), which you represent, received a request for certain information pertaining to a specified incident involving the requestor. The department claims the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the claimed exception 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."<sup>1</sup> Gov't Code § 552.101. Section 552.101 encompasses section 261.201 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

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<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).

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). Upon review, we find the submitted information was used or developed in an investigation of alleged or suspected child abuse or neglect. *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, the information is within the scope of section 261.201 of the Family Code. There is no indication 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 department must generally withhold the submitted information under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.<sup>2</sup>

However, we note the submitted information includes a Toxicology Request Submission Form and Toxicology Laboratory Report. Section 724.018 of the Transportation Code provides that, on the request of the person who has given a specimen at the request of a peace officer, full information concerning the analysis of the specimen must be made available to that person or the person’s attorney. Transp. Code § 724.018. In this instance, the requestor is the individual who provided the specimen at the request of a peace officer. Although the department claims this information is excepted from disclosure under section 552.108 of the Government Code, a specific right of access provision prevails over the Act’s general exceptions to disclosure. *See* ORD 451 at 4. Therefore, the information at issue may not be withheld under section 552.108 of the Government Code. Accordingly, we find the requestor generally has a right of access to this information pursuant to section 724.018 of the Transportation Code.

Thus, although the information at issue is generally confidential under section 261.201(a) of the Family Code, section 724.018 provides the requestor with a right of access to the information at issue. Therefore, there is a conflict between the confidentiality provision of section 261.201(a) and the right of access provision of section 724.018. As noted above, 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 of the Family Code generally makes records of alleged child abuse or neglect confidential, section 724.018 of the Transportation Code specifically requires release of information pertaining to the analysis of a breath or blood specimen to

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<sup>2</sup> As our ruling is dispositive, we need not address the department’s argument against disclosure of this information.

certain parties. We therefore conclude information at issue may not be withheld from the requestor under section 261.201(a). Thus, the department must release the Toxicology Request Submission Form and Toxicology Laboratory Report pursuant to section 724.018 of the Transportation Code.

In summary, the department must release the Toxicology Request Submission Form and Toxicology Laboratory Report pursuant to section 724.018 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.

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,

Katie Stallcup  
Assistant Attorney General  
Open Records Division

AKS/mo

Ref: ID# 965926

Enc. Submitted documents

c: Requestor  
(w/o enclosures)