



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 7, 2022

Ms. Jodie Clopton  
Assistant General Counsel  
Texas Department of Public Safety  
P.O. Box 4087  
Austin, Texas 78773-0001

OR2022-30870

Dear Ms. Clopton:

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# 976899.

The Texas Department of Public Safety (the "department") received a request for a specified offense report. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>1</sup>

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>2</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:

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<sup>1</sup> 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.

<sup>2</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).

(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). 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>3</sup>

However, we note the submitted information includes a Toxicology Request Submission Form. 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 represents 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 Open Records Decision No. 451 at 4 (1986)*. 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

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<sup>3</sup> As our ruling is dispositive, we need not address the department’s argument against disclosure of this information.

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 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 pursuant to section 724.018 of the Transportation Code.

In summary, the department must release the Toxicology Request Submission 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,

Kelly McWethy  
Assistant Attorney General  
Open Records Division

KM/eb

Ref: ID# 976899

Enc. Submitted documents

c: Requestor  
(w/o enclosures)