



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 2, 2022

Ms. Amy L. Sims  
Deputy City Attorney  
City of Lubbock  
P.O. Box 2000  
Lubbock, Texas 79457

OR2022-37212

Dear Ms. Sims:

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# 990497 (COL File Nos. P0022553-090622, G001037-091222, P002337-091522, P002443-092722, F00304-092922, and F00305-092922).

The City of Lubbock (the "city") received six requests from five requestors for certain information pertaining to a specified incident. The city claims the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions the city claims 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." 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 that 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 that those records contain substantially different types of information than that submitted to this office.

(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.

...

(k) Notwithstanding Subsection (a), an investigating agency . . . on request, shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect, or to the child if the child is at least 18 years of age, information concerning the reported abuse or neglect that would otherwise be confidential under this section. The investigating agency shall withhold information under this subsection if the parent, managing conservator, or other legal representative of the child requesting the information is alleged to have committed the abuse or neglect.

(l) Before a child or a parent, managing conservator, or other legal representative of a child may inspect or copy a record or file concerning the child under Subsection (k), the custodian of the record or file must redact:

...

(2) any information that is excepted from required disclosure under [the Act], or other law[.]

Fam. Code § 261.201(a), (k), (l)(2). 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. The city does not indicate it 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 city must generally withhold the submitted information in its entirety from the first, second, and third requestors under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. However, we note the fourth requestor represents the parent of the child victims named in the information at issue, and the parent is not alleged to have committed the abuse. Further, the fifth requestor represents two of the child victims at issue. Therefore, the city may not withhold the submitted information from the fourth or fifth requestors under section 261.201(a). *See id.* § 261.201(k). However, we also note section 261.201(l)(2) states that any information excepted from required disclosure under the Act or other law may still be withheld from disclosure. *See id.* § 261.201(l)(2). Thus, we will

consider the city's argument under section 552.108 of the Government Code for the submitted information.

We note the submitted information includes CR-3 accident reports. Section 552.101 of the Government Code also encompasses information subject to chapter 550 of the Transportation Code. Section 550.065 applies only to a written report of an accident required under section 550.061, 550.062, or 601.004. Transp. Code § 550.065(a)(1). Chapter 550 requires the creation of a written report when the accident resulted in injury to or the death of a person or damage to the property of any person to the apparent extent of \$1,000 or more. Transp. Code §§ 550.061 (operator's accident report), .062 (officer's accident report). An accident report is privileged and for the confidential use of the Texas Department of Transportation or a local governmental agency of Texas that has use for the information for accident prevention purposes. *Id.* § 550.065(b). However, a governmental entity may release an accident report in accordance with subsections (c) and (c-1). *Id.* § 550.065(c), (c-1). Section 550.065(c) provides a governmental entity shall release an accident report to a person or entity listed under this subsection. *Id.* § 550.065(c).

In this instance, the third, fourth, and fifth requestors are persons listed under section 550.065(c). Therefore, the third, fourth, and fifth requestors each have a right of access to the submitted accident reports in their entirety. The first and second requestors have not demonstrated they are a person listed under section 550.065(c). Thus, the submitted accident report is confidential under section 550.065(b) of the Transportation Code with respect to the first and second requestors, and the city must withhold it under section 552.101 of the Government Code on that basis. However, section 550.065(c-1) requires the city to create a redacted accident report that may be requested by any person. *Id.* § 550.065(c-1). The redacted accident report may not include the information listed in subsection (f)(2). *Id.* Therefore, the first and second requestors have a right of access to the redacted accident reports. Thus, we must address the conflict between the confidentiality provided under section 261.201(a) of the Family Code and the right of access provided to each requestor under section 550.065 of the Transportation Code. 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.). Although section 261.201(a) generally pertains to all records of alleged or suspected child abuse or neglect, section 550.065 specifically pertains to accident reports. Accordingly, we find section 550.065 is more specific than, and prevails over, section 261.201(a). We also note, although the city asserts section 552.108 of the Government Code to withhold this information, a statutory right of access prevails over a claim under the Act's general exceptions to public disclosure. *See Open Records Decision Nos. 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information), 451 (1986) (specific statutory right of access provisions overcome general exception to disclosure under the Act).* Because section 552.108 is a general exception under the Act, the requestors' statutory access under section 550.065 prevails and the city may not withhold the accident reports from the requestors under section 552.108. Thus, the city must release the accident reports in their entirety to the third, fourth, and fifth requestors pursuant to

section 550.065(c) of the Transportation Code and the redacted accident reports to the first and second requestors pursuant to section 550.065(c-1) of the Transportation Code. The city must withhold the remaining information from the first, second, and third requestors under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.<sup>2</sup>

Section 552.108(a)(1) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). The city states the remaining information relates to a pending investigation. Based on this representation and our review, we find release of the remaining information would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, section 552.108(a)(1) is applicable to the remaining information.

However, section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). Section 552.108(c) refers to the basic information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of basic information, which must be released to the fourth and fifth requestors, the city may withhold the remaining information under section 552.108(a)(1) of the Government Code.<sup>3</sup>

In summary, the city must release the accident reports in their entirety to the third, fourth, and fifth requestors pursuant to section 550.065(c) of the Transportation Code and the redacted accident reports to the first and second requestors pursuant to section 550.065(c-1) of the Transportation Code. The city must withhold the remaining information from the first, second, and third requestors under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. With the exception of basic information, which must be released to the fourth and fifth requestors, the city may withhold the remaining information under section 552.108(a)(1) of the Government Code.<sup>4</sup>

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<sup>2</sup> As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information with respect to these requestors, including the applicability of section 1701.661(a) of the Occupations Code to the submitted video recordings. *See generally* Occ. Code § 1701.661(a), (e).

<sup>3</sup> As our ruling is dispositive, we need not address the remaining arguments against disclosure of the remaining information with respect to these requestors, including the applicability of section 1701.661(a) of the Occupations Code to the submitted video recordings. *See generally* Occ. Code § 1701.661(a), (e).

<sup>4</sup> We note the fourth and fifth requestors have a special right of access to the information being released. *See* Fam. Code § 261.201(k). Accordingly, if the city receives another request for this same information from a different requestor, the city must again seek a ruling from this office.

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,

Gerald A. Arismendez  
Assistant Attorney General  
Open Records Division

GAA/pt

Ref: ID# 990497

Enc. Submitted documents

c: Requestor  
(w/o enclosures)