



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 8, 2022

Ms. Michelle Rollins
Legal Department
City of Sherman
P.O. Box 1106
Sherman, Texas 75091

OR2022-38028

Dear Ms. Rollins:

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# 988874 (Ref. No. P-000315).

The Sherman Police Department (the "department") received a request for information pertaining to a specified incident.¹ 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 information.

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."² Gov't Code § 552.101. Section 552.101 encompasses statutes that make information confidential, such as section 261.201(a) of the Family Code, which provides, in relevant part, as follows:

¹ The department states it sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

² The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body but ordinarily will not raise other exceptions. *See* Open Records Decision No. 481 (1987), 480 (1987), 470 (1987).

(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 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.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code); *see also id.* § 101.003(a) (defining “child” for purposes of chapter 261). Thus, the submitted information is subject to section 261.201. As you do not indicate the department has adopted a rule that governs the release of this type of information, we assume no such rule exists. Given that assumption, we conclude the submitted information is generally confidential under section 261.201(a) of the Family Code.

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 261.201 as needed to provide services” under chapter 264 of the Family Code. *Id.* § 264.408(c).

In this instance, the requestor is a representative of the Court Appointed Special Advocates of Grayson County, Inc. (“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 information at issue is not needed to provide services under chapter 264, then it may not release the information on that ground, and the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.³ If, however, 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 information at issue to this requestor pursuant to section 264.408(c). We note information shared with or provided to

³ In this instance, as our ruling is dispositive, we need not address your submitted argument against disclosure of this information.

CASA under section 264.408(c) retains its confidentiality under section 261.201(a) of the Family Code. *See id.* Although you raise section 552.108 of the Government Code for the submitted information, 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.).*

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. *See Gov't Code § 552.130.* Upon review, we find the information at issue contains audible and visible motor vehicle record information that is generally confidential under section 552.130 of the Government Code. We note section 552.130 is not a general exception under the Act because it has its own access provisions. *See ORDs 613 at 4, 451 at 4.*

Thus, if the department determines the information at issue is needed to provide services under chapter 264 of the Family Code, there is a conflict between the confidentiality provision found in section 552.130 of the Government Code and the 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, 521 S.W.2d 277.* 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).* Accordingly, in this instance, we find section 552.130 of the Government Code is a more specific statute than section 264.408 of the Family Code. Thus, section 552.130 of the Government Code prevails over section 264.408 of the Family Code. Therefore, if the department determines release of the information at issue is needed to provide services under chapter 264 of the Family Code, it has the discretion to release the submitted information to this requestor pursuant to section 264.408(c) of the Family Code but must withhold all visible license plates and vehicle registration stickers, as well as any discernible audible motor vehicle record information, under section 552.130 of the Government Code.

In summary, if the department determines the information at issue 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 at issue is needed to provide services under chapter 264 of the Family Code, then the department has the discretion to release the submitted information to this requestor pursuant to section 264.408(c) of the Family Code but must withhold all visible license plates and vehicle registration stickers, as well as any discernible audible motor vehicle record information, 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,

Pearlie Gault
Assistant Attorney General
Open Records Division

PG/mo

Ref: ID# 988874

Enc. Submitted documents

c: Requestor
(w/o enclosures)