ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 2, 2012

Ms. LeAnn M. Quinn
City Secretary
City of Cedar Park
450 Cypress Creek Road
Cedar Park, Texas 78613

OR2012-06369

Dear Ms. Quinn:

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# 452360 (Cedar Park Reference Nos. 12-360, 12-410).

The City of Cedar Park (the "city") received two requests from different requestors for a specified police report. You state the city will redact certain motor vehicle information pursuant to section 552.130(c) of the Government Code and Open Records Decision No. 684 (2009) and social security numbers pursuant to section 552.147(b) of the Government Code.[1] You claim portions of the submitted information are excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note some of the submitted information, which we have marked, is not responsive to the first request because it was created after the date the city received the first

[1]The Texas legislature amended section 552.130 of the Government Code effective September 1, 2011, to allow a governmental body to redact the information described in subsections 552.130(a)(1) and (a)(3) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). Open Records Decision No. 684 permits a governmental body to redact Texas license plate numbers, which are made confidential by section 552.130(a)(2), without requesting an attorney general decision. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. Gov't Code § 552.147(b).

request. The city need not release this non-responsive information to the first request, and this ruling will not address that information with respect to the first requestor.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."[2] Gov't Code § 552.101. Section 552.101 encompasses section 261.201 of the Family Code, which provides as follows:

> (a) Except as provided by Section 261.203, the 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). The submitted information pertains to an investigation of endangering a child. Therefore, this information is within the scope of section 261.201 of the Family Code. *See id.* § 261.001(1), (4) (defining "abuse" and "neglect" for purposes of chapter 261 of the Family Code); Penal Code § 22.041(c). Accordingly, we conclude the submitted information is generally confidential pursuant to section 261.201 of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (construing predecessor statute).

However, we note the submitted documents contain information pertaining to the analysis of a blood specimen obtained by a peace officer. Section 724.018 of the Transportation Code provides that "[o]n the request of a person who has given a specimen at the request of a peace officer, *full information* concerning the analysis of the specimen shall be made available to the person or the person's attorney." Transp. Code § 724.018 (emphasis added). We find that "full information" under section 724.018 refers to the results of the analysis of the specimen, and includes the "Toxicology Report" and the "Toxicology/Blood Alcohol Kit Laboratory Submission Form." In this instance, the first requestor is the individual who gave the blood specimen at the request of a peace officer, and the second requestor, who represents the insurance company of the first requestor, may be the authorized representative of the first requestor. Accordingly, we find the first requestor has a right of access to the information subject to section 724.018 of the Transportation Code and the second requestor may have a right of access to this information.

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[2]The Office of the Attorney General will raise a mandatory exception such as section 552.101 on behalf of a governmental body. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Thus, although the submitted information is generally confidential under section 261.201 of the Family Code, section 724.018 provides the first requestor and potentially provides the second requestor with a right of access to the information pertaining to the analysis of a blood specimen obtained by a peace officer. Therefore, there is a conflict between the confidentiality provision of section 261.201 and the right of access provision of section 724.018. 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 permits release of information pertaining to the analysis of a blood specimen to certain parties. We, therefore, conclude the information we have marked pertaining to the analysis of a blood specimen may not be withheld from the first requestor under section 261.201(a). Additionally, we find that to the extent the second requestor is acting as the authorized representative of the first requestor, the information we have marked may not be withheld from the second requestor. We further note that general exceptions in the Act cannot impinge on a statutory right of access to information. *See* Open Records Decision Nos. 613 at 4 (1993); *see also* Open Records Decision No. 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Act). Consequently, the information we have marked may not be withheld from the requestors under section 552.108 of the Government Code. Thus, the city must release the information we have marked pertaining to the analysis of a blood specimen to the first requestor under section 724.018 of the Transportation Code. To the extent the second requestor is acting as the authorized representative of the first requestor, the city must release the information we have marked to the second requestor under section 724.018 of the Transportation Code.

In summary, the city must release the information we have marked pertaining to the analysis of a blood specimen to the first requestor under section 724.018 of the Transportation Code. To the extent the second requestor is acting as the authorized representative of the first requestor, the city must release the information we have marked to the second requestor under section 724.018 of the Transportation Code. The city must withhold the remaining information from both requestors under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.[3]

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

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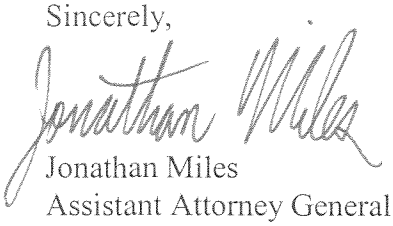
[3]As our ruling is dispositive, we need not address your remaining arguments.

responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Jonathan Miles
Assistant Attorney General
Open Records Division

JM/em

Ref: ID# 452360

Enc. Submitted documents

c: Requestor
(w/o enclosures)