



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 5, 2012

Mr. Tyler F. Wallach
Assistant City Attorney
Office of the City Attorney
City of Fort Worth
1000 Throckmorton Street
Fort Worth, Texas 76102

OR2012-08603

Dear Mr. Wallach:

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# 455538 (PIR No. W015521).

The City of Fort Worth (the "city") received a request for all information pertaining to a specified accident. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim 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." Gov't Code § 552.101. This exception encompasses information made confidential by other statutes, such as section 261.201 of the Family Code. Section 261.201 provides, in relevant part:

(a) [T]he following information is confidential, is not subject to public release under Chapter 552, Government Code, 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). You assert the submitted information was used or developed in an investigation of child abuse. *See id.* § 261.001(1) (defining “abuse” for purposes of chapter 261 of the Family Code); *see also* Penal Code § 22.04(c) (defining “child” for purposes of injury to a child as a person 14 years of age or younger). We note the submitted information reveals that the incident to which the submitted information relates was referred to the Child Protective Services Division of the Texas Department of Family and Protective Services (“CPS”) and that the submitted information was used by CPS in their investigation. Therefore, based on your representations and our review of the submitted information, we find the submitted information is within the scope of section 261.201. You do not indicate CPS has adopted a rule governing the release of this type of information; therefore, we assume no such regulation exists. Given that assumption, we conclude the submitted information is generally confidential pursuant to section 261.201 of the Family Code.

We note, however, the submitted information contains a CR-3 accident form completed under chapter 550 of the Transportation Code. Section 552.101 also encompasses section 550.065 of the Transportation Code. Section 550.065(b) provides that, except as provided by subsection (c), accident reports are privileged and confidential. Transp. Code § 550.065. Section 550.065(c)(4) of the Transportation Code, however, requires the release of accident reports to a person who provides two of the following three pieces of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident. *Id.* § 550.065(c)(4). In this instance, the requestor has provided the city with the required information. Although the requested investigation records are generally confidential under section 261.201 of the Family Code, section 550.065(c)(4) requires the accident report to be released to the requestor because she supplied the required information.

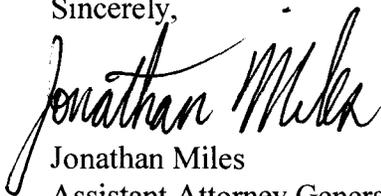
Therefore, there is a conflict between the provisions of section 261.201 of the Family Code and section 550.065(c)(4) of the Transportation Code. Where general and specific statutes are in irreconcilable conflict, the specific provision typically prevails as an exception to the general provision unless 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.). In this instance, although section 261.201 generally pertains to all records of alleged child abuse, section 550.065(c)(4) specifically pertains to accident reports. Therefore, in this instance, section 550.065 governs the release of the marked

accident reports. Additionally, although you claim the marked CR-3 report is excepted from disclosure under section 552.108 of the Government Code on behalf of the district attorney, we note, as a general rule, that information specifically made public by statute may not be withheld from the public under any of the exceptions to public disclosure under the Act. *See* Attorney General Opinion DM-146 (1992); *see also* Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989), 451 at 3 (1986). Therefore, the city must release the marked CR-3 accident report pursuant to section 550.065(c)(4) of the Transportation Code. The remaining information must be withheld under section 552.101 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 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/bhf

Ref: ID# 455538

Enc. Submitted documents

c: Requestor
(w/o enclosures)