



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 13, 2012

Ms. Delietrice Henry  
Senior Open Records Assistant  
Plano Police Department  
P.O. Box 860358  
Plano, Texas 75086-0358

OR2012-10866

Dear Ms. Henry:

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# 459769 (Plano ORR No. SALA050112).

The Plano Police Department (the "department") received a request for a specified police report. You claim the submitted 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 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 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

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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.

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.

...

(k) Notwithstanding Subsection (a), an investigating agency, other than the department or the Texas Youth Commission, 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.

Fam. Code § 261.201(a), (k). The submitted information pertains to an investigation of the offense of driving while intoxicated with a child passenger. Accordingly, we find the submitted information falls within the scope of section 261.201(a) of the Family Code. *See id.* §§ 261.001 (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code), 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). We note information may not be withheld on the basis of section 261.201(a) from a parent of a child who was the victim of alleged or suspected abuse or neglect unless the parent is alleged to have committed the abuse or neglect. *See id.* § 261.201(k). Although the requestor is a parent of the child who was the victim of the alleged or suspected abuse or neglect, the requestor is accused of committing the abuse or neglect. 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. In this instance,

the requestor is the individual who gave the blood specimen at the request of a peace officer. Accordingly, we find the requestor has a right of access to the information subject to section 724.018 of the Transportation Code.

Thus, although the submitted information is generally confidential under section 261.201 of the Family Code, section 724.018 provides the 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 requestor under section 261.201(a). 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 requestor under section 552.108 of the Government Code. Thus, the department must release the information we have marked pertaining to the analysis of a blood specimen to the requestor under section 724.018 of the Transportation Code.

In summary, the department must release the information we have marked pertaining to the analysis of a blood specimen under section 724.018 of the Transportation Code. The department must withhold the remaining information under section 552.101 in conjunction with section 261.201 of the Family Code.<sup>2</sup>

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](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free,

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<sup>2</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure.

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,

A handwritten signature in cursive script, appearing to read "Kristi L. Wilkins".

**Kristi L. Wilkins**  
**Assistant Attorney General**  
**Open Records Division**

KLW/eb

Ref: ID# 459769

Enc. Submitted documents

c: Requestor  
(w/o enclosures)