



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 3, 2012

Mr. Rene M. Pena
District Attorney
81st Judicial District
1327 Third Street
Floresville, Texas 78114

OR2012-15745

Dear Mr. Pena:

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# 466719.

The Atascosa County District Attorney's Office (the "district attorney's office") received a request for the complete investigation file related to a specified case. You claim the submitted information is excepted from disclosure under sections 552.101, 552.103, 552.108, 552.111, 552.130, 552.132, and 552.147 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. Section 552.101 encompasses section 261.201 of the Family Code, which provides:

(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 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). You do not indicate the district attorney’s office 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 under section 261.201 of the Family Code.

We note, however, the submitted information contains a CR-3 crash report completed under chapter 550 of the Transportation Code. Section 552.101 of the Government Code 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 district attorney’s office 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 crash report to be released to the requestor because she supplied the required information.

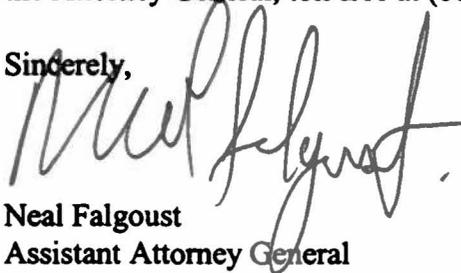
Therefore, there is a conflict between the provisions of section 261.201 of the Family Code and section 550.065(c)(4) of the Transportation Code. Where general and specific statutes are in irreconcilable conflict, the specific provision typically prevails as an exception to the general provision unless 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 crash reports. Therefore, in this instance, section 550.065 governs the release of the marked crash reports. Additionally, although you claim the marked report is excepted from disclosure under sections 552.103 and 552.108 of the Government Code, 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 district attorney’s office must release the marked CR-3 crash

form pursuant to section 550.065(c)(4) of the Transportation Code. The remaining information must be withheld under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. We note that because section 261.201(a) protects all "files, reports, records, communications, audiotapes, videotapes, and working papers" relating to an investigation of alleged or suspected child abuse, the district attorney's office must not release basic front-page information in such cases.

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,



Neal Falgoust
Assistant Attorney General
Open Records Division

NF/ag

Ref: ID# 466719

Enc. Submitted documents

c: Requestor
(w/o enclosures)