



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 12, 2015

Ms. Delietrice Henry
Open Records Assistant
The City of Plano
P.O. Box 860358
Plano, Texas 75086-0358

OR2015-09168

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# 563265 (ORR# PARC022015).

The Plano Police Department (the "department") received a request for offense reports pertaining to a named individual and specified offense. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception 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, which provides, in relevant 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 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 was used or developed in an investigation by the department of alleged or suspected child abuse. *See id.* § 261.001(1) (defining “abuse” for purposes of Fam. Code ch. 261); *see also id.* § 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). Thus, we find the submitted information is within the scope of section 261.201(a) of the Family Code. 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 find the submitted information is generally confidential under section 261.201(a) of the Family Code.

In this instance, however, the requestor is a representative of the Texas Board of Pardons and Paroles (the “board”) of the Texas Department of Criminal Justice (“TDCJ”). Section 261.201 provides that 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). The requestor states the requested information is sought in order to complete parole processing for the board. The requestor also states the information is requested in accordance with section 508.311 of the Government Code, which provides:

On request of a member of the board or employee of the board or [TDCJ], a public official of the state, including a judge, district attorney, county attorney, or police officer, who has information relating to an inmate eligible for parole shall send to [TDCJ] in writing the information in the official’s possession or under the official’s control.

Gov’t Code § 508.311. Thus, section 508.311 of the Government Code requires that information relating to an inmate eligible for release on parole be provided to TDCJ. We find section 508.311 constitutes “applicable state law” for purposes of section 261.201(a) of the Family Code. *See* Fam. Code § 261.201(a). However, we cannot determine whether the board intends to use the submitted information for purposes consistent with the Family Code. Therefore, if the department determines the board does not intend to use the submitted information for purposes consistent with the Family Code, the department must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. However, if the department determines the board intends to use the submitted information for purposes consistent with the Family Code, we conclude the department must release the submitted information to the requestor.

However, the submitted information contains information subject to section 552.130 of the Government Code.¹ Section 552.130 provides information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release. Gov't Code § 552.130(a). If the department determines the board intends to use the submitted information for purposes consistent with the Family Code, then the board has a statutory right of access to the submitted information under section 508.311 of the Government Code. A specific statutory right of access prevails over general exceptions to disclosure under the Act. Open Records Decision No. 451 at 4 (1986). However, because section 552.130 has its own access provisions, we conclude section 552.130 is not a general exception under the Act. Accordingly, we must address the conflict between the access provided under section 508.311 of the Government Code and the confidentiality provided under section 552.130 of the Government Code. Where information falls within both a general and a specific provision, the specific provision typically prevails as an exception to the general provision. 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, section 508.311 generally applies to information relating to an inmate eligible for parole. Section 552.130 specifically protects motor vehicle record information. Thus, we conclude section 552.130 is more specific than the general right of access provided under section 508.311 of the Government Code. Therefore, we conclude, notwithstanding section 508.311, the department must withhold the information we have marked under section 552.130 of the Government Code.

Some of the remaining information is subject to sections 552.136 and 552.147 of the Government Code. We note, however, sections 552.136 and 552.147 are general exceptions to disclosure under the Act and, as previously mentioned, a specific statutory right of access prevails over general exceptions to disclosure under the Act. See Open Records Decision No. 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information). Accordingly, because the requestor has a statutory right of access to the information at issue, if the department determines the board intends to use the information for purposes consistent with the Family Code, the department may not withhold any of the submitted information under sections 552.136 and 552.147 of the Government Code.

In summary, if the department determines the board does not intend to use the submitted information for purposes consistent with the Family Code, the department must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. However, if the department

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

determines the board intends to use the submitted information for purposes consistent with the Family Code, we conclude the department must release the submitted information to the requestor. In releasing the information, the department must withhold the information we have marked 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 http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in cursive script that reads "Leah B. Wingerson".

Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/bhf

Ref: ID# 563265

Enc. Submitted documents

c: Requestor
(w/o enclosures)