



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 28, 2015

Mr. Scott Durfee  
Assistant General Counsel  
Harris County  
Criminal Justice Center  
1201 Franklin, Suite 600  
Houston, Texas 77002

OR2015-20196

Dear Mr. Durfee:

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# 581331 (Cause No. 1450050).

The Harris County District Attorney's Office (the "district attorney's office") received a request for all documents relating to the prosecution of a named individual. 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 relevant part:

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<sup>1</sup>We assume 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 those records contain substantially different types of information than that submitted to this office.

(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 was used or developed in an investigation of alleged or suspected child abuse or neglect. *See 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), 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code). Accordingly, the submitted information is within the scope of section 261.201 of the Family Code. You have not indicated the district attorney’s office has adopted a rule that governs the release of this type of information. Therefore, we assume no such regulation exists. Given that assumption, we conclude the district attorney’s office must generally withhold the submitted information under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.<sup>2</sup>

We note, however, the submitted information contains a CR-3 accident report completed under chapter 550 of the Transportation Code. Section 552.101 of the Government Code also encompasses information subject to chapter 550 of the Transportation Code. Section 550.065 applies only to a written report of an accident required under section 550.061, 550.062, or 601.004. Act of June 1, 2015, 84th Leg., R.S., ch. 936, § 1, 2015 Tex. Sess. Law Serv. 3256 (Vernon) (to be codified at Transp. Code § 550.065(a)(1)). Chapter 550 requires the creation of a written report when the accident resulted in injury to or the death of a person or damage to the property of any person to the apparent extent of \$1,000 or more. Transp. Code §§ 550.061 (operator’s accident report), .062 (officer’s accident report). An accident report is privileged and for the confidential use of the Texas Department of Transportation or a local governmental agency of Texas that has use for the information for accident prevention purposes. *Id.* § 550.065(b). However, a governmental entity may release an accident report in accordance with subsections (c) and (c-1). Act of June 1, 2015, 84th Leg., R.S., ch. 936, § 1, 2015 Tex. Sess. Law Serv. 3256 (Vernon) (to be codified at Transp. Code § 550.065(a)(1)). Section 550.065(c) provides a governmental

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

entity shall release an accident report to a person or entity listed under this subsection. *Id.* § 550.065(c).

In this instance, the requestor is not a person listed under section 550.065(c). Thus, the submitted accident report is confidential under section 550.065(b) and must be withheld under section 552.101 of the Government Code. However, section 550.065(c-1) requires the district attorney's office to create a redacted accident report that may be requested by any person. Transp. Code § 550.065(c-1). The redacted accident report may not include the information listed in subsection (f)(2). *Id.* Therefore, the requestor has a right of access to the redacted accident report. Although the district attorney's office asserts section 552.108 to withhold the information, a statutory right of access prevails over the Act's general exceptions to public disclosure. *See, e.g.,* Open Records Decision Nos. 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information), 451 (1986) (specific statutory right of access provisions overcome general exception to disclosure under the Act). Because section 552.108 is a general exception under the Act, the requestor's statutory access under section 550.065(c-1) prevails and the district attorney's office may not withhold the redacted accident report under section 552.108 of the Government Code.

Further, we note there is a conflict between the confidentiality provided under section 261.201(a) of the Family Code and the right of access provided under section 550.065(c-1) of the Transportation Code for the redacted accident report. 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(a) generally pertains to all records of alleged child abuse or neglect, section 550.065(c-1) specifically pertains to accident reports. Therefore, we find section 550.065(c-1) is more specific than, and prevails over, section 261.201(a). Thus, the district attorney's office must release the redacted version of the CR-3 accident report to the requestor pursuant to section 550.065(c-1) of the Transportation Code.

In summary, the district attorney's office must withhold the submitted accident report under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code, but must release the redacted accident report to the requestor pursuant to section 550.065(c-1) of the Transportation Code. The district attorney's office must withhold the remaining information under section 552.101 of the Government Code in conjunction with section 261.201(a) 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](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 "Nicole Thomas".

Nicole Thomas  
Assistant Attorney General  
Open Records Division

NT/eb

Ref: ID# 581331

Enc. Submitted documents

c: Requestor  
(w/o enclosures)