



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 25, 2017

Ms. Ileana Fernandez  
Assistant City Attorney  
City of Mesquite  
P. O. Box 850137  
Mesquite, Texas 75185-0137

OR2017-01687

Dear Ms. Fernandez:

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# 643477.

The Mesquite Police Department (the "department") received a request for a specified arrest report. The department informs us it will redact dates of birth pursuant to Open Records Letter No. 2015-24970 (2015).<sup>1</sup> You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.1175, 552.130, 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. This exception encompasses information other statutes make confidential. Section 58.007 provides, in relevant part:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise,

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<sup>1</sup>Open Records Letter No. 2015-24970 is a previous determination authorizing the department to withhold the dates of birth of public citizens under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a decision from this office.

concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

(1) if maintained on paper or microfilm, kept separate from adult files and records;

(2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and

(3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapters B, D, and E.

...

(e) Law enforcement records and files concerning a child may be inspected or copied by a juvenile justice agency as that term is defined by Section 58.101, a criminal justice agency as that term is defined by Section 411.082, Government Code, the child, and the child's parent or guardian.

...

(j) Before a child or a child's parent or guardian may inspect or copy a record or file concerning the child under Subsection (e), the custodian of the record or file shall redact:

(1) any personally identifiable information about a juvenile suspect, offender, victim, or witness who is not the child; and

(2) any information that is excepted from required disclosure under Chapter 552, Government Code, or other law.

Fam. Code § 58.007(c), (e), (j). Juvenile law enforcement records relating to conduct indicating a need for supervision that occurred on or after September 1, 1997, are confidential under section 58.007(c). *See id.* § 51.03(b) (defining "conduct indicating a need for supervision" for purposes of section 58.007). For purposes of section 58.007(c), child means a person who is ten years of age or older and under seventeen years of age when the conduct occurred. *See id.* § 51.02(2). Upon review, we find the submitted information involves juvenile conduct indicating a need for supervision occurring after September 1, 1997. Therefore, the submitted information is generally confidential under section 58.007(c). We note, and you acknowledge, however, the requestor is the parent of

one of the juvenile offenders listed in the report. Therefore, the requestor has a right to inspect juvenile law enforcement records concerning her juvenile child pursuant to section 58.007(e) of the Family Code. *See id.* § 58.007(e). Section 58.007(j)(1) states that, before information is released to a parent under section 58.007(e), a custodian of records must redact any personally identifiable information about a juvenile suspect, offender, victim, or witness who is not the parent's child. *See Id.* § 58.007(j)(1). Thus, in releasing the submitted information, the department must withhold the identifying information of the juvenile arrestee who is not the requestor's child, which you marked, under section 552.101 in conjunction with section 58.007(j)(1) of the Family Code. Additionally, section 58.007(j)(2) provides information subject to any other exception to disclosure under the Act or other law must be redacted. *See id.* § 58.007(j)(2). Accordingly, we will address your remaining arguments against disclosure.

You assert portions of the remaining information are excepted from disclosure under section 552.1175 of the Government Code, which protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. Gov't Code § 552.1175. However, we have no indication the individual whose information is at issue is among the types of individuals listed in section 552.1175. *See id.* § 552.1175(a). Thus, we find the department has failed to demonstrate any of the information you marked is subject to section 552.1175 of the Government Code. Accordingly, the department may not withhold any of the remaining information on that basis.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *Id.* § 552.130(a). Upon review, we find the department must withhold the motor vehicle record information you marked under section 552.130 of the Government Code.

Section 552.147(a) of the Government Code excepts the social security number of a living individual from public disclosure. *Id.* § 552.147. Upon review, we find the department may withhold the social security numbers you marked under section 552.147 of the Government Code.

In summary, the department must withhold the identifying information of the juvenile arrestee who is not the requestor's child, which you marked, under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. The department must withhold the motor vehicle record information you marked under section 552.130 of the Government Code. The department may withhold the social security

numbers you marked under section 552.147 of the Government Code. The department must release the remaining information.<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.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,



Kelly McWethy  
Assistant Attorney General  
Open Records Division

KSM/eb

Ref: ID# 643477

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>We note the requestor has a special right of access under section 58.007(e) of the Family Code to the information being released. *See* Fam. Code § 58.007(e) (child's parent or guardian may inspect or copy law enforcement records and files concerning that child). If the department receives another request for this same information from an individual who does not have a right of access to the information, the department should request another ruling. *See* Gov't Code §§ 552.301, .302; Open Records Decision No. 673 (2001).