



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 15, 2017

Mr. Jason Day  
City Attorney  
City of Royse City  
P.O. Box 638  
Royse City, Texas 75189

OR2017-10335

Dear Mr. Day:

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# 657981 (RCCA17-02-0073).

The City of Royse City (the "city") received a request for specified reports pertaining to the requestor. 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. Section 552.101 encompasses section 58.007 of the Family Code, which makes confidential juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997. *See* Fam. Code § 58.007(c). Section 58.007 provides, in relevant part, the following:

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

*Id.* § 58.007(c), (e), (j). For purposes of section 58.007(c), a "child" is a person ten years of age or older and under seventeen years of age at the time of the reported conduct. *See id.* § 51.02(2). Upon review, we find report number 12-04-0066 involves juveniles engaged in delinquent conduct on or after September 1, 1997. Thus, this information is subject to section 58.007(c). In this instance, however, the requestor is one of the juvenile offenders at issue and is now an adult. Thus, the requestor has a right to inspect juvenile law enforcement records concerning himself pursuant to section 58.007(e) of the Family Code. *See id.* § 58.007(e). However, pursuant to section 58.007(j)(1), any personally identifiable information concerning other juvenile suspects, offenders, victims, or witnesses must be redacted. *See id.* § 58.007(j)(1). Thus, the city must generally withhold the identifying information of the other juvenile offenders and witnesses in report number 12-04-0066, which we marked, under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. However, we are unable to determine the age of some of the witnesses and offenders in the information at issue. Thus, we must rule conditionally. To the extent the information at issue pertains to witnesses who were under eighteen years of age when the conduct occurred or to juvenile offenders who were ten years

of age or older and under seventeen years of age at the time of the reported conduct, the city must withhold this information under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. However, to the extent this information does not pertain to witnesses who were under eighteen years of age when the conduct occurred or to juvenile offenders who were ten years of age or older and under seventeen years of age at the time of the reported conduct, the city may not withhold the marked information at issue under section 552.101 in conjunction with section 58.007(j)(1). Further, we find you failed to demonstrate any of the remaining information in report number 12-04-0066 identifies an additional juvenile suspect, offender, victim, or witness who is not the requestor. Therefore, no portion of the remaining information at issue may be withheld under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. We note, however, section 58.007(j)(2) provides information subject to any other exception to disclosure under the Act or other law must also be redacted. *See id.* § 58.007(j)(2). Accordingly, we will address whether report number 12-04-0066 is otherwise excepted under the Act. Further, we find report number 14-04-0060 does not involve a juvenile identified as a suspect, offender, or defendant. Therefore, we find that you have failed to demonstrate the applicability of section 58.007 to this information, and it may not be withheld under section 552.101 on this basis.

Section 552.101 of the Government Code also encompasses 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.

*Id.* § 261.201(a). Upon review, we find report number 14-04-0060 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 information is within the scope of section 261.201 of the Family Code. You have not indicated the city 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 city must withhold report number 14-04-0060 in its entirety under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.

Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). Under the common-law right of privacy, an individual has a right to be free from the publicizing of private affairs in which the public has no legitimate concern. *Id.* at 682. The court of appeals has concluded public citizens' dates of birth are protected by common-law privacy pursuant to section 552.101. *Paxton v. City of Dallas*, No. 03-13-00546-CV, 2015 WL 3394061, at \*3 (Tex. App.—Austin May 22, 2015, pet. denied) (mem. op.). We note the requestor has a right of access to his own date of birth. See Gov't Code § 552.023(a) ("person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and that is protected from public disclosure by laws intended to protect that person's privacy interests"); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). We note the information at issue contains dates of birth pertaining to individuals who have been de-identified and whose privacy interests are, thus, protected. Therefore, the city must withhold the date of birth we marked in the remaining information under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, 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.<sup>1</sup> See Gov't Code § 552.130(a). Accordingly, the city must withhold the motor vehicle record information we have marked in the remaining information under section 552.130 of the Government Code.

In summary, the city must generally withhold the identifying information of the other juvenile offenders and witnesses in report number 12-04-0066, which we marked, under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. However, to the extent this information does not pertain to witnesses who were under eighteen years of age when the conduct occurred or to juvenile offenders who were ten years of age or older and under seventeen years of age at the time of the reported conduct, the city may not withhold the marked information at issue under section 552.101 in conjunction with section 58.007(j)(1) of the Family Code. The city must withhold report number 14-04-0060 in its entirety under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. The city must withhold the date

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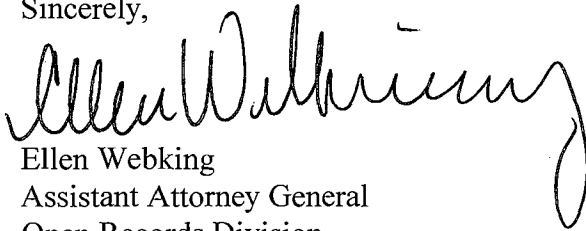
<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

of birth we marked in the remaining information under section 552.101 of the Government Code in conjunction with common-law privacy. The city must withhold the motor vehicle record information we have marked in the remaining information under section 552.130 of the Government Code. The city 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,



Ellen Webking  
Assistant Attorney General  
Open Records Division

EW/bw

Ref: ID# 657981

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>We note the requestor has a right of access to some of the information being released. See Fam. Code §§ 58.007(e); Gov't Code § 552.023(a); ORD 481 at 4. Thus, the city must again seek a decision from this office if it receives another request for the same information from another requestor.