



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 13, 2017

Mr. James Kopp  
Assistant City Attorney  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283-3966

OR2017-23414

Dear Mr. Kopp:

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# 679785 (COSA File No. W178544).

The City of San Antonio (the "city") received a request for information pertaining to a specified address during a specified time period. The city states it will withhold certain information pursuant to sections 552.130(c), 552.136(c), and 552.147(b) of the Government Code and Open Records Letter No. 2016-08566 (2016).<sup>1</sup> You claim some of 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 information.

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<sup>1</sup>Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). Section 552.136(c) of the Government Code allows a governmental body to redact the information described in section 552.136(b) without the necessity of seeking a decision from the attorney general. *See id.* § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(d), (e). Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. *See id.* § 552.147(b). Open Records Letter No. 2016-08566 authorizes the city to withhold public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a ruling from this office.

Section 552.101 of the Government Code exempts 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 58.008 of the Family Code, which provides, in part:

(b) Except as provided by Subsection (d), law enforcement records concerning a child and information concerning a child that are stored by electronic means or otherwise and from which a record could be generated may not be disclosed to the public and shall be:

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

(2) if maintained electronically in the same computer system as adult records, accessible only under controls that are separate and distinct from the 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 Subsection (c) or Subchapter B, D, or E.

Act of May 28, 2017, 85th Leg., R.S., S.B. 1304, § 13 (to be codified at Fam. Code § 58.008(b)); *see also* Fam. Code § 51.03(a) (defining “delinquent conduct” for purposes of title 3 of Family Code). Section 58.008(b) is applicable to records of juvenile conduct that occurred before, on, or after September 1, 2017. *See* Act of May 28, 2017, 85th Leg., R.S., S.B. 1304, § 22. The juvenile must have been at least 10 years old and less than 17 years of age when the conduct occurred. *See* Fam. Code § 51.02(2) (defining “child” for purposes of title 3 of Family Code). Section 58.008(b) does not apply to law enforcement records that relate to a juvenile only as a complainant, victim, witness, or other involved party. We understand the city to argue the submitted information is subject to section 58.008(b) of the Family Code.<sup>2</sup> We find the information we marked involves juvenile offenders, so as to fall within the scope of section 58.008(b). It does not appear that any of the exceptions in section 58.008 apply; therefore, the city must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 58.008(b) of the Family Code. However, we find none of the remaining information constitutes confidential law enforcement records under 58.008(b). Accordingly, no portion of the remaining information may be withheld under 552.101 of the Government Code on that basis.

Section 552.101 of the Government Code also encompasses information made confidential by other statutes, such as chapter 772 of the Health and Safety Code, which authorizes the

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<sup>2</sup>Although you raise section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code, we note the 85th Legislature repealed this provision effective September 1, 2017. Act of May 28, 2017, 85th Leg., R.S., S.B. 1304, § 21.

development of local emergency communication districts. Section 772.318 of the Health and Safety Code applies to an emergency communication district for a county with a population of more than 20,000 and makes confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a 9-1-1 service supplier. *See* Open Records Decision No. 649 (1996). You state the city is part of an emergency communication district that is subject to section 772.318 of the Health and Safety Code. Accordingly, the city must withhold the information you marked under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code if it consists of originating telephone numbers and addresses furnished by a 9-1-1 service supplier. If the marked information does not consist of originating telephone numbers and addresses provided by a 9-1-1 service supplier, it may not be withheld under section 552.101 in conjunction with section 772.318.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the information you marked pertains to a concluded criminal investigation that did not result in conviction or deferred adjudication. Based on this representation, we agree section 552.108(a)(2) is applicable to the information you marked.

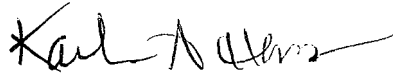
However, section 552.108 does not except from disclosure "basic information about an arrested person, an arrest, or a crime." *Id.* § 552.108(c). Section 552.108(c) refers to the basic "front-page" information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of basic information, which must be released, the city may withhold the information you marked under section 552.108(a)(2) of the Government Code.

In summary, the city must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 58.008(b) of the Family Code. The city must withhold the information you marked under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code if it consists of originating telephone numbers and addresses furnished by a 9-1-1 service supplier. With the exception of basic information, the city may withhold the information you marked under section 552.108(a)(2) of the Government Code. The city must release the remaining information.

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,



Kaelan A. Henze  
Assistant Attorney General  
Open Records Division

KAH/gw

Ref: ID# 679785

Enc. Submitted documents

c: Requestor  
(w/o enclosures)