



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 20, 2017

Ms. Yvette Aguilar  
Assistant City Attorney  
City of Corpus Christi  
P.O. Box 9277  
Corpus Christi, Texas 78469-9277

OR2017-24045

Dear Ms. Aguilar:

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# 680760 (CCPD File No. TJun1).

The Corpus Christi Police Department (the "department") received a request for information pertaining to a specified address over a specified time period. We understand the department will redact the motor vehicle record information you have marked pursuant to section 552.130(c) of the Government Code, the dates of birth you have marked pursuant to Open Records Letter No. 2016-00831 (2016), and the originating telephone numbers of 9-1-1 callers you have marked pursuant to the previous determination issued to the department in Open Records Letter No. 2011-16393 (2011).<sup>1</sup> You claim some of 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 section 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). Open Records Letter No. 2016-00831 is a previous determination issued to the department authorizing it to withhold private citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a decision from this office. Open Records Letter No. 2011-16393 is a previous determination issued to the department authorizing it to withhold, under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code, an originating telephone number of a 9-1-1 caller furnished to the department by a service supplier established in accordance with chapter 772 of the Health and Safety Code without the necessity of requesting an attorney general decision.

is excepted from disclosure under sections 552.101 and 552.137 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 section encompasses information protected by other statutes, such as 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 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.

...

(d) Law enforcement records concerning a child may be inspected or copied by:

(1) a juvenile justice agency, as defined by Section 58.101;

(2) a criminal justice agency, as defined by Section 411.082, Government Code;

(3) the child; or

(4) the child’s parent or guardian.

(e) Before a child or a child’s parent or guardian may inspect or copy a record concerning the child under Subsection (d), the custodian of the record 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 [the Act] or any other law.

Act of May 28, 2017, 85th Leg., ch. 746 § 13, 2017 Tex. Sess. Law Serv. 3173, 3176-77 (Vernon) (to be codified at Fam. Code § 58.008(b), (d), (e); *see* Fam. Code § 51.03(a) (defining “delinquent conduct” for purposes of title 3 of Family Code); Act of May 19, 2017, 85th Leg., R.S., ch. 324 § 7.002, Tex. Sess. Law Serv. 841, 848 (Vernon) (to be codified as amendments to Fam. Code § 51.03(b)); Act of May 30, 2017, 85th Leg., R.S., ch. 685 § 21, 2017 Tex. Sess. Law Serv. 3044, 3057 (Vernon) (to be codified as amendments to Fam. Code § 51.03(b)) (defining “conduct indicating a need for supervision”). 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., ch. 746 § 22, 2017 Tex. Sess. Law Serv. 3173, 3187. The juvenile must have been at least 10 years old and less than 17 years of age when the conduct occurred. *See* Act of May 28, 2017, 85th Leg., R.S., ch. 746 § 13, 2017 Tex. Sess. Law Serv. 3176-77. We find case number 0806090088 involves a child engaged in delinquent conduct or conduct indicating a need for supervision, so as to fall within the scope of section 58.008(b). In this instance, however, the requestor, who is now an adult, is the juvenile offender at issue. As such, the requestor has a right to inspect case number 0806090088 pursuant to section 58.008(d) of the Family Code. *See* Act of May 28, 2017, 85th Leg., ch. 746 § 13, 2017 Tex. Sess. Law Serv. 3173, 3176-77 (Vernon) (to be codified at Fam. Code § 58.008(d)). However, section 58.008(e)(1) provides that any identifiable information about a juvenile suspect, offender, victim, or witness who is not the requestor must be redacted. *See* Act of May 28, 2017, 85th Leg., ch. 746 § 13, 2017 Tex. Sess. Law Serv. 3173, 3176-77 (Vernon) (to be codified at Fam. Code § 58.008(e)(1)). Accordingly, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with 58.008(e)(1) of the Family Code.<sup>2</sup>

Section 552.101 of the Government Code also encompasses section 261.201 of the Family Code, which provides:

- (a) [T]he following information is confidential, is not subject to public release under Chapter 552, Government Code, 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:

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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., ch. 746 § 13, 2017 Tex. Sess. Law Serv. 3173, 3176-77.

(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.

...

(k) Notwithstanding Subsection (a), an investigating agency, other than the [Texas Department of Family and Protective Services] or the Texas Juvenile Justice Department, on request, shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect, or to the child if the child is at least 18 years of age, information concerning the reported abuse or neglect that would otherwise be confidential under this section. The investigating agency shall withhold information under this subsection if the parent, managing conservator, or other legal representative of the child requesting the information is alleged to have committed the abuse or neglect.

(l) Before a child or a parent, managing conservator, or other legal representative of a child may inspect or copy a record or file concerning the child under Subsection (k), the custodian of the record or file must redact:

(1) Before a child or a parent, managing conservator, or other legal representative of a child may inspect or copy a record or file concerning the child under Subsection (k), the custodian of the record or file must redact:

...

(2) any information that is excepted from required disclosure under [the Act], or other law; and

(3) the identity of the person who made the report.

Fam. Code § 261.201(a), (k), (l)(2)-(3). Case number 1103039115 consists of a report of alleged or suspected child abuse or neglect made to the department. *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, we find this information is subject to chapter 261 of the Family

Code. We note, however, the requestor is the child victim listed in the information and the requestor is now an adult. Thus, pursuant to section 261.201(k), the information at issue may not be withheld from this requestor under section 552.101 of the Government Code on the basis of section 261.201(a). *See id.* § 261.201(k). However, section 261.201(l)(3) states the identity of the reporting party shall be withheld from disclosure. *Id.* § 261.201(l)(3). Therefore, the department must withhold the identity of the reporting party in case number 1103039115 under section 552.101 of the Government Code in conjunction with section 261.201(l)(3) of the Family Code. Furthermore, section 261.201(l)(2) states any information that is excepted from required disclosure under the Act or other law may still be withheld from disclosure. *Id.* § 261.201(l)(2). Therefore, we will consider your argument under section 552.137 of the Government Code.

Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body,” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). Gov’t Code § 552.137(a)-(c). The e-mail address you marked is not one of the types specifically excluded by section 552.137(c). *See id.* § 552.137(c). Accordingly, the department must withhold the e-mail address you marked under section 552.137 of the Government Code unless the owner of the address affirmatively consents to its release.

In summary, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 58.008(e)(1) of the Family Code. The department must withhold the identity of the reporting party in case number 1103039115 under section 552.101 of the Government Code in conjunction with section 261.201 (l)(3) of the Family Code. The department must withhold the e-mail address you marked under section 552.137 unless the owner of the address affirmatively consents to its release. The department must release the remaining information.<sup>3</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.

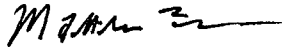
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

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<sup>3</sup>We note the requestor has a special right of access to some of the information being released in this instance. *See* Fam. Code §§ 261.201(k); 58.008(d); *see also* Gov’t Code § 552.023(a). Accordingly, if the department receives another request for this information from a different requestor, then the department should again seek a ruling from this office.

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 black ink, appearing to read "Matthew Taylor", with a horizontal line extending to the right.

Matthew Taylor  
Assistant Attorney General  
Open Records Division

MHT/tdw

Ref: ID# 680760

Enc. Submitted documents

c: Requestor  
(w/o enclosures)