



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 1, 2019

Ms. Priscilla de Mata  
Counsel for the Socorro Independent School District  
Blanco Ordoñez Mata & Wechsler, P.C.  
5715 Cromo Drive  
El Paso, Texas 79912

OR2019-05739

Dear Ms. de Mata:

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# 753325 (ORR# 2019-110).

The Socorro Independent School District (the "district"), which you represent, received a request for a specified incident report. 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. 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.

Fam. Code § 58.008(b), (d)-(e); *see also id.* § 51.03(a)-(b) (defining "delinquent conduct" and "conduct indicating a need for supervision" 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.<sup>1</sup> 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

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<sup>1</sup>Although you raise section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code, we note the 85th Legislature repealed this provision effective September 1, 2017. *See* Act of May 28, 2017, 85th Leg., R.S., ch. 746, § 21, 2017 Tex. Sess. Law Serv. 3173, 3187. Thus, we understand you to raise section 58.008(b) of the Family Code.

purposes of title 3 of Family Code). We find the submitted information consists of an incident report created by the district's police department involving juvenile offenders, so as to fall within the scope of section 58.008(b). In this instance, however, the requestor is a parent of one of the juvenile offenders at issue in the submitted information. As such, the requestor has a right to inspect juvenile law enforcement records concerning this juvenile pursuant to section 58.008(d) of the Family Code. *See id.* § 58.008(d). However, section 58.008(e)(1) provides any personally identifiable information about a juvenile suspect, offender, victim, or witness for whom the requestor is not the parent must be redacted. *See id.* § 58.008(e)(1). Accordingly, upon review, we find the district must generally withhold the identifying information of the other juveniles named in the submitted information, which we have marked, under section 552.101 of the Government Code in conjunction with section 58.008(e)(1) of the Family Code. Further, section 58.008(e)(2) provides information subject to any other exception to disclosure under the Act or other law must also be redacted. *See id.* § 58.008(e)(2). Accordingly, we will consider whether the remaining information is otherwise excepted from disclosure.

We note, however, the submitted information includes CR-3 accident reports 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. *See* 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. *Id.* §§ 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 shall release an accident report in accordance with subsections (c) and (c-1). *Id.* § 550.065(c), (c-1). Section 550.065(c) provides a governmental 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 a person listed under section 550.065(c). Thus, section 550.065(c) generally requires the accident reports to be released to the requestor. Therefore, we must address the conflict between the confidentiality provided under section 58.008(e)(1) of the Family Code and the right of access provided under section 550.065(c) of the Transportation Code. 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 58.008 generally pertains to juvenile law enforcement records, section 550.065(c) specifically provides access only to accident reports of the type at issue. Therefore, we conclude the access to accident reports provided under

section 550.065(c) is more specific than, and prevails over, section 58.008(e)(1). Thus, the district may not withhold any portion of the CR-3 accident reports from the requestor under section 552.101 of the Government Code in conjunction with section 58.008(e)(1) of the Family Code. Accordingly, the district must release the accident reports in their entirety to this requestor pursuant to section 550.065(c) of the Transportation Code.

Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. This office has found personal financial information not relating to a financial transaction between an individual and a governmental body is generally highly intimate or embarrassing. *See* Open Records Decision No. 600 (1992) (personal financial information includes choice of a particular insurance carrier). The court of appeals has concluded public citizens' dates of birth are protected by common-law privacy pursuant to section 552.101. *See 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 her own date of birth and her minor child's date of birth and this information may not be withheld from her under common-law privacy. *See* Gov't Code § 552.023 (a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Further, we note the information at issue includes the dates of birth of individuals who will be de-identified pursuant to section 58.008(e)(1) of the Family Code and whose privacy interest will, thus, be protected. Upon review, we find the information we have marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, with the exception of the requestor's date of birth and the date of birth related to the requestor's minor child, the district must withhold the information we have marked and the dates of birth of any remaining identifiable public citizens 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>2</sup> *See* Gov't Code § 552.130(a). We note section 552.130 protects personal privacy. Accordingly, the requestor has a right of access to her own motor vehicle record information and her minor child's motor vehicle record information under section 552.023 of the Government Code and it may not be withheld from her under section 552.130. *See id.* § 552.023(a); ORD 481 at 4. Upon review, we find the district must withhold the motor vehicle record information we have marked and all visible license plates and registration stickers in the submitted photographs under section 552.130 of the Government Code.

Section 552.136 of the Government Code provides, “[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” Gov't Code § 552.136(b); *see id.* § 552.136(a) (defining “access device”). This office has determined insurance policy numbers are access device numbers for purposes of section 552.136. *See* Open Records Decision No. 684 at 9 (2009). Upon review, we find the district must withhold the insurance policy number we have marked under section 552.136 of the Government Code.

In summary, the district must release the accident reports in their entirety to this requestor pursuant to section 550.065(c) of the Transportation Code. The district 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. With the exception of the requestor's date of birth and the date of birth related to the requestor's minor child, the district must withhold the information we have marked and the dates of birth of any remaining identifiable public citizens under section 552.101 of the Government Code in conjunction with common-law privacy. The district must withhold the motor vehicle record information we have marked and all visible license plates and registration stickers in the submitted photographs under section 552.130 of the Government Code. The district must withhold the insurance policy number we have marked under section 552.136 of the Government Code. The district must release the remaining information to this requestor.<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.

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<sup>2</sup>The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481, 480 (1987), 470 (1987).

<sup>3</sup>We note the requestor has a right of access to the information being released in this instance. *See* Fam. Code § 58.008(d); Gov't Code §§ 552.023, 560.002; *see also* ORD 481 at 4. If the district receives another request for this information from a different requestor, the district must again seek a ruling from this office. *See* Gov't Code §§ 552.301, .302; Open Records Decision No. 673 (2001).

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 black ink, appearing to read 'Tim Neal', written in a cursive style.

Tim Neal  
Assistant Attorney General  
Open Records Division

TN/mo

Ref: ID# 753325

Enc. Submitted documents

c: Requestor  
(w/o enclosures)