



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 23, 2019

Ms. Jennifer Slack  
Assistant District Attorney  
Lubbock County  
P.O. Box 10536  
Lubbock, Texas 79408-3536

OR2019-10784

Dear Ms. Slack:

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# 761073 (ORR# 1300).

The Lubbock County Sheriff's Office (the "sheriff's office") received a request for all information related to a specified address. You state you released some information. You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.130 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. 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.

Fam. Code § 58.008(b); *see also id.* § 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 id.* § 58.008(b). The juvenile must have been at least 10 years old and less than 17 years of age when the conduct occurred. *See id.* § 51.02(2) (defining “child” for purposes of title 3 of Family Code). We find the information we marked involves a juvenile offender, 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 sheriff’s office 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.<sup>1</sup> However, we find the remaining information 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 58.008 to the remaining information, and it may not be withheld under section 552.101 on this basis.

Section 552.101 of the Government Code also encompasses information that is made confidential by statute. Section 261.201(a) of the Family Code provides as follows:

(a) The 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:

(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). You state a portion of the remaining information was used or developed in an investigation of alleged or suspected child abuse or neglect. *See id.* §§ 101.003(a)

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

(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). Thus, based on our review, we find the information we marked is within the scope of section 261.201 of the Family Code. You have not indicated the sheriff’s office has adopted a rule that governs the release of this type of information; therefore, we assume no such regulation exists. Given that assumption, the sheriff’s office must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.<sup>2</sup> See Open Records Decision No. 440 at 2 (1986) (predecessor statute). However, we find the sheriff’s office has failed to demonstrate the remaining information involves a report of alleged or suspected abuse or neglect of a child made under chapter 261 or how the information was used or developed in an investigation of alleged or suspected child abuse or neglect. Therefore, the sheriff’s office may not withhold the remaining information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

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. See Gov’t Code § 552.130. Upon review, you have failed to demonstrate any of the remaining information at issue is subject to section 552.130. Thus, the sheriff’s office may not withhold any of the remaining information at issue under section 552.130 of the Government 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.). Thus, the sheriff’s office must withhold dates of birth you marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find no portion of the remaining information is highly intimate or embarrassing information of an individual that is of no legitimate public concern. Accordingly, the sheriff’s office may not withhold any of the remaining information under section 552.101 of the Government Code on the basis of common-law privacy.

In summary, the sheriff’s office 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.

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<sup>2</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

The sheriff's office must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. The sheriff's office must withhold dates of birth you marked under section 552.101 of the Government Code in conjunction with common-law privacy. The sheriff's office 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 providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Emily Buchanan  
Attorney  
Open Records Division

EB/gw

Ref: ID# 761073

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>3</sup>We note the information at issue contains social security numbers. 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 under the Act. See Gov't Code § 552.147(b).