



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 15, 2019

Mr. John McKinney  
Assistant County Attorney  
Montgomery County  
501 North Thompson, Suite 300  
Conroe, Texas 77301

OR2019-13075

Dear Mr. McKinney:

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# 765656 (ORR 19PIA087).

The Montgomery County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a specified incident. You claim some of the requested 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)-(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. *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* Fam. Code § 51.02(2) (defining “child” for purposes of title 3 of Family Code). Upon review, we find the submitted information involves delinquent conduct or conduct indicating a need for supervision. However, we are unable to determine the age of some of the suspects listed in the information at issue. Accordingly, we must rule conditionally. If any of the suspects at issue were ten years of age or older and under seventeen years of age at the time of the conduct at issue, then, as it does not appear any of the exceptions in section 58.008 apply, the sheriff’s office must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 58.008(b) of the Family Code.<sup>1</sup> However, if all of the suspects at issue were under ten years of age or were seventeen years of age or older at the time of the conduct, then the information at issue does not involve juvenile conduct for purposes of section 58.008(b) of the Family Code, and the information at issue may not be withheld under section 552.101 of the Government Code on that basis.

Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle operator’s license or driver’s license or a motor vehicle title or registration issued by a Texas agency, or an agency of another state or country. *See* Gov’t Code § 552.130(a)(1)-(2). You assert, and we agree, the submitted video recordings contain confidential motor vehicle record information that is excepted from disclosure under section 552.130. In this instance, you state the sheriff’s office does not possess the technological capability to redact information from video files. Thus, the sheriff’s office must withhold the submitted video recordings in their entireties under section 552.130 of the Government Code.<sup>2</sup> *See* Open Records Decision No. 364 (1983).

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<sup>1</sup>In that instance, our ruling is dispositive and we need not address your remaining arguments against disclosure.

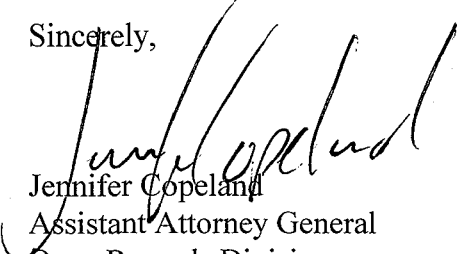
<sup>2</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure.

In summary, if any of the suspects at issue were ten years of age or older and under seventeen years of age at the time of the conduct at issue, then, as it does not appear any of the exceptions in section 58.008 apply, the sheriff's office must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 58.008(b) of the Family Code. If all of the suspects at issue were under ten years of age or were seventeen years of age or older at the time of the conduct, then the sheriff's office must (1) withhold the submitted video recordings in their entireties under section 552.130 of the Government Code and (2) 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,



Jennifer Copeland  
Assistant Attorney General  
Open Records Division

JC/gw

Ref: ID# 765656

Enc. Submitted documents

c: Requestor  
(w/o enclosures)