



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 16, 2019

Mr. Matthew J. Longoria  
Counsel for the City of Copperas Cove  
Denton Navarro Rocha Bernal & Zech, P.C.  
2517 North Main Avenue  
San Antonio, Texas 78212-4685

OR2019-25949

Dear Mr. Longoria:

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# 785797 (ORR# W005305).

The City of Copperas Cove (the "city"), which you represent, received a request for all incident reports or calls for service involving a specified address, the requestor, and two other named individuals. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, 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. This section 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. This office has found a compilation of an individual's criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. *Cf. United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989) (when considering prong regarding individual's privacy interest, court recognized distinction between public records found in courthouse files and local police stations and compiled summary of information and noted

that individual has significant privacy interest in compilation of one's criminal history). Furthermore, we find a compilation of a private citizen's criminal history is generally not of legitimate concern to the public.

You assert the present request requires the city to compile unspecified law enforcement records concerning the named individuals. We note the requestor seeks reports involving himself and the other named individuals. The instant request, in part, seeks specified records involving the requestor, and the requestor has a right of access to private information pertaining to himself pursuant to section 552.023 of the Government Code. *See* Gov't Code § 552.023(a) (governmental body may not deny access to person or person's representative to whom information relates on grounds that information is considered confidential under privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). You have submitted law enforcement records that involve the requestor. Because the requestor has a right of access to this information, the department may not withhold it under section 552.101 of the Government Code in conjunction with common-law privacy on that basis. We note the requestor may be the parent or guardian of one of the named individuals, who is a minor. A parent or guardian of a minor would be the minor's authorized representative and would have a special right of access to information that would ordinarily be withheld to protect the minor's common-law privacy interests. *See* Gov't Code § 552.023(a); ORD 481 at 4. Therefore, if the requestor is not a parent or guardian of the named minor individual, then to the extent the city maintains law enforcement records depicting the named individuals other than the requestor as suspects, arrestees, or criminal defendants, the city must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy. However, if the requestor is a parent or guardian of the named minor individual, then he has a special right of access to the compilation of his child's criminal history information, to the extent it exists, and that information may not be withheld under section 552.101 of the Government Code in conjunction with common-law privacy. Furthermore, you have submitted law enforcement records that do not list the remaining named individuals as suspects, arrestees, or criminal defendants. This information does not consist of a compilation of the named individuals' criminal histories, and the city may not withhold it under section 552.101 in conjunction with common-law privacy on that basis. Accordingly, we will address the applicability of the remaining exceptions you claim against disclosure of this information.

Section 552.101 of the Government Code also encompasses section 58.008 of the Family Code, which provides, in part, the following:

(b) Except as provided by Subsection (c), 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.

...

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

...

(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 14, 2019, 86th Leg., R.S., H.B. 1760, § 4; Fam. Code § 58.008(d)(4), (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. 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 CAD Incident Report Number 1902200130 and Case Report Number 19-0288 involve juvenile offenders, so as to fall within the scope of section 58.008(b). The exceptions in section 58.008 do not appear to apply to Case Report Number 19-0288. Therefore, the city must withhold Case Report Number 19-0288 under section 552.101 of the Government Code in conjunction with section 58.008(b) of the Family Code.<sup>1</sup> However, as noted above, the requestor may be a parent or guardian of the named minor individual in CAD Incident

---

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

Report Number 1902200130 and, in that case, would have access to this information pursuant to section 58.008(d). *See id.* § 58.008(d). Therefore, if the requestor is a parent or guardian of the named minor individual, the city may not withhold CAD Incident Report Number 1902200130 from the requestor under section 552.101 on the basis of section 58.008(b). *See id.* § 58.008(d). We note section 58.008(e)(1) states any personally identifiable information about a juvenile suspect, offender, victim, or witness who is not the requestor's child must be redacted. *See id.* § 58.008(e)(1). However, we are unable to determine of the age of the other juvenile at issue in CAD Incident Report Number 1902200130. Thus, we must rule conditionally. If the other juvenile in CAD Incident Report Number 1902200130 was ten years of age or older and under seventeen years of age at the time of the reported conduct, the city must withhold this juvenile's identifying 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. However, if the juvenile at issue was not ten years of age or older and under seventeen years of age at the time of the reported conduct, the city may not withhold the marked information under section 552.101 in conjunction with section 58.008(e)(1). Furthermore, section 58.008(e)(2) provides information that is subject to any other exception to disclosure under the Act or other law must be redacted. *See id.* § 58.008(e)(2). Thus, we will consider whether this information is otherwise excepted from disclosure.

Section 552.101 encompasses section 261.201 of the Family Code, which provides, in relevant part:

(a) [T]he following information is confidential, is not subject to public release under [the Act] 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.

...

(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.

*Id.* § 261.201(a), (k). Upon review, we find CAD Incident Report Number 1902220113 and Case Report Number 19-0598 relate to investigations of alleged or suspected child abuse or neglect conducted by the city's police department (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). We note the requestor is a parent of the alleged child victim in CAD Incident Report Number 1902220113 and Case Report Number 19-0598. However, the requestor is accused of committing the alleged or suspected abuse or neglect. Thus, the requestor does not have a right of access to CAD Incident Report Number 1902220113 and Case Report Number 19-0598 under section 261.201(k). *Id.* § 261.201(k). Accordingly, the city must withhold CAD Incident Report Number 1902220113 and Case Report Number 19-0598 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).

As stated above, section 552.101 of the Government Code encompasses the doctrine of common-law privacy, which is subject to the two-part test discussed above. *Indus. Found.*, 540 S.W.2d at 685. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Upon review, we find no portion of the remaining information is highly intimate or embarrassing and of no legitimate public concern, and the city may not withhold any of the remaining information under section 552.101 of the Government Code on the basis of 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. *See* Gov't Code § 552.130. Upon review, we find you have failed to demonstrate any of the remaining information at issue is subject to section 552.130. Thus, the city may not withhold any of the remaining information under section 552.130 of the Government Code.

In summary, if the requestor is not a parent or guardian of the named minor individual, then to the extent the city maintains law enforcement records depicting the named individuals other than the requestor as suspects, arrestees, or criminal defendants, the city must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy. The city must withhold Case Report Number 19-0288 under

---

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

section 552.101 of the Government Code in conjunction with section 58.008(b) of the Family Code. To the extent the requestor is a parent or guardian of the named minor individual, then, if the other juvenile in CAD Incident Report Number 1902200130 was ten years of age or older and under seventeen years of age at the time of the reported conduct, the city must withhold this juvenile's identifying 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. The city must withhold CAD Incident Report Number 1902220113 and Case Report Number 19-0598 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. The city 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.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Tim Neal  
Assistant Attorney General  
Open Records Division

TN/be

Ref: ID# 785797

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

---

<sup>3</sup> We note the requestor may have a right of access to some of the information being released. *See* Fam. Code § 58.008(d)(4); 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). Thus, the city must again seek a decision from this office if it receives another request for the same information from another requestor.