



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 1, 2020

Ms. P. Armstrong  
Assistant City Attorney  
Criminal Law and Police Section  
City of Dallas  
1400 South Lamar  
Dallas, Texas 75215

OR2020-24748

Dear Ms. Armstrong:

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# 850310 (Reference No. D012967-060520).

The Dallas Police Department (the "department") received a request for information pertaining to a named individual, a specified location, and a specified incident. You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.136 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 of the Government Code also encompasses section 261.201 of the Family Code, which provides, in relevant part, as follows:

(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.

(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:

...

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

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

*Id.* § 261.201(a), (k), (l)(2), (3). Upon review, we find the submitted information was used or developed in an investigation of alleged or suspected child abuse or neglect under chapter 261 of the Family Code. *See id.* §§ 101.003(a) (defining “child” for purposes of section 261.201), 261.001(1), (4) (defining “abuse” and “neglect” for purposes of section 261.201). However, we note the requestor may represent a parent, guardian, or managing conservator of the child victim listed in the submitted information, and the child victim’s parent, guardian, or managing conservator is not alleged to have committed the abuse or neglect. As such, this requestor may have a right of access to the information at issue pursuant to section 261.201(k). As we are unable to determine whether the requestor represents a parent, guardian, or managing conservator of the child victim, we must rule conditionally. If the requestor does not represent a parent, guardian, or managing conservator of the child victim listed in the information at issue, then the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.<sup>1</sup> *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute). Conversely, if the requestor represents a parent, guardian, or managing conservator of the child victim, then the department may not withhold the submitted information under section 261.201(a). *See* Fam. Code § 261.201(k).

---

<sup>1</sup> In this instance, as our ruling is dispositive, we need not address the remaining arguments against disclosure of the submitted information.

However, section 261.201(1)(3) states the identity of the reporting party shall be withheld from disclosure. *Id.* § 261.201(1)(3). Accordingly, if the requestor represents a parent, guardian, or managing conservator of the child victim, the department must withhold the identifying information of the reporting party, which we marked, under section 552.101 of the Government Code in conjunction with section 261.201(1)(3) of the Family Code.<sup>2</sup> Moreover, section 261.201(1)(2) states any information that is excepted from required disclosure under the Act or other law must still be withheld from disclosure. *Id.* § 261.201(1)(2). Accordingly, we will also consider the department’s arguments against disclosure of the information at issue.

Section 552.108(a)(1) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). A governmental body that claims an exception to disclosure under section 552.108(a)(1) must explain how and why this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the information at issue relates to a pending criminal investigation/prosecution. Based upon your representation and our review, we find release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, section 552.108(a)(1) is applicable to the information at issue. Accordingly, the department may withhold the information you marked under section 552.108(a)(1) 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.). However, one of the marked dates of birth belongs to an individual who has been de-identified pursuant to section 262.201(1)(3) of the Family Code and whose privacy interests is thus protected. Accordingly, the department may not withhold the date of birth belonging to the de-identified individual under section 552.101 of the Government Code in conjunction with common-law privacy. Nevertheless, the department must withhold all identifiable public citizens’ dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.136(b) 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.”

---

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

*Id.* § 552.136(b); *see id.* § 552.136(a) (defining “access device”). We understand the employee identification numbers the department marked are used in conjunction with one additional digit to access the department employees’ credit union bank accounts. Accordingly, the department must withhold the employee identification number you marked under section 552.136 of the Government Code.

In summary, if the requestor does not represent a parent, guardian, or managing conservator of the child victim listed in the information at issue, then the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. If the requestor represents a parent, guardian, or managing conservator of the child victim, the department: (1) must withhold the identifying information of the reporting party, which we marked, under section 552.101 of the Government Code in conjunction with section 261.201(l)(3) of the Family Code; (2) may withhold the information you marked under section 552.108(a)(1) of the Government Code; must withhold all identifiable public citizens’ dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy; must withhold the employee identification number you marked under section 552.136 of the Government Code; and must 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 <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,

Jahna Ward  
Assistant Attorney General  
Open Records Division

JW/mo

Ref: ID# 850310

Enc. Submitted documents

c: Requestor  
(w/o enclosures)