



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 16, 2020

Mr. Sterling A. Brown  
Assistant City Attorney  
City of Corpus Christi  
P.O. Box 9277  
Corpus Christi, Texas 78469-9277

OR2020-31580

Dear Mr. Brown:

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# 858973 (Ref. No. JCru9).

The Corpus Christi Police Department (the "department") received a request for a specified police 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. Section 552.101 encompasses information protected by other statutes, including the Family Code. Subchapter E of chapter 264 of the Family Code applies to children's advocacy centers. *See* Fam. Code §§ 264.401-.411. Section 264.408 of the Family Code provides, in relevant part, as follows:

(a) The files, reports, records, communications, and working papers used or developed in providing services under this chapter are confidential and not subject to public release under Chapter 552, Government Code, and may only be disclosed for purposes consistent with this chapter. Disclosure may be to:

(1) the [Texas Department of Family and Protective Services ("the department")], department employees, law enforcement agencies, prosecuting attorneys, medical professionals, and other state agencies that provide services to children and families; and

(2) the attorney for the child who is the subject of the records and a court-appointed volunteer advocate appointed for the child under Section 107.031.

*Id.* § 264.408(a); *see also id.* § 264.001(1-a) (defining “department” for purposes of chapter 264 of the Family Code). Section 264.408 provides that certain information used or developed in providing services under chapter 264 of the Family Code, which concerns child welfare services, is confidential. Section 264.408 also explicitly provides for circumstances in which such confidential information may be disclosed. *See id.* You state some of the submitted information was obtained from a Children’s Assessment Center (the “CAC”) that qualifies under chapter 264 of the Family Code as a children’s advocacy center. You state the CAC provided services under chapter 264 to the child listed in the submitted report. As part of these services, you explain the CAC conducted a recorded interview of the child, which was provided to the department by the CAC. You state the information at issue is a summary of these CAC interviews and are confidential. Based upon your arguments and our review, we conclude a portion of the information at issue is confidential pursuant to section 264.408(a) of the Family Code. Furthermore, it does not appear the provisions allowing for the disclosure of this information apply to this requestor. *See id.* § 264.408(a)(1), (2). Accordingly, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 264.408 of the Family Code. However, we do not find, and the documents do not reflect, the remaining information pertains to the provision of services by a child advocacy center under chapter 264 of the Family Code. Accordingly, the department may not withhold any portion of the remaining information under section 552.101 of the Government Code in conjunction with section 264.408 of the Family 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 department must withhold all public citizens’ dates of birth 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>1</sup> *See* Gov’t Code § 552.130. Accordingly, the department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

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<sup>1</sup> The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

In summary, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 264.408 of the Family Code. The department must withhold all public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. The department 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,

Meredith L. Coffman  
Assistant Attorney General  
Open Records Division

MLC/gw

Ref: ID# 858973

Enc. Submitted documents

c: Requestor  
(w/o enclosures)