



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 4, 2022

Ms. Alexis Clifford
Paralegal
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR2022-30596

Dear Ms. Clifford:

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# 975954 (ORR# LNex314).

The Corpus Christi Police Department (the "department") received a request for report number 2205200041. We understand the department will redact dates of birth of members of the public pursuant to the previous determination issued in Open Records Letter No. 2016-00831 (2016).¹ The department claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception the department claims and reviewed the submitted representative sample of information.²

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:

¹ Open Records Letter No. 2016-00831 authorized the department to withhold dates of birth of members of the public under section 552.101 of the Government Code in conjunction with common-law privacy without the necessity of requesting an attorney general's decision. *See* Open Records Decision No. 673 at 7-8 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code).

² We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

(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.

Fam. Code § 58.008(b); *see also id.* § 51.03 (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. 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). We note section 58.008(b) does not apply to law enforcement records that relate to a juvenile involved only as a complainant, victim, witness, or other involved party; rather, the juvenile must be involved as a suspect, offender, or defendant. Upon review, we find the information at issue involves delinquent conduct or conduct indicating a need for supervision. However, we are unable to determine the age of the suspect at the time of the conduct at issue. Accordingly, we must rule in the alternative. If the suspect was ten years of age or older and under seventeen years of age at the time of the conduct, then, as it does not appear any of the exceptions in section 58.008 apply, the department must withhold the information at issue in its entirety under section 552.101 of the Government Code in conjunction with section 58.008(b) of the Family Code. However, if the suspect was under ten years of age or was seventeen years of age or older at the time of the conduct, then the information does not involve juvenile conduct for purposes of section 58.008(b) of the Family Code, and no portion of the information at issue may be withheld under section 552.101 of the Government Code on that basis. Therefore, in that instance, we will consider the applicability of other exceptions to disclosure of the information at issue.

We note some of the submitted information is subject to section 552.130 of the Government Code.³ Section 552.130 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. Accordingly, the department must withhold the motor vehicle record information we marked under section 552.130 of the Government Code.

³ 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, if the suspect was ten years of age or older and under seventeen years of age at the time of the conduct, then, as it does not appear any of the exceptions in section 58.008 apply, the department must withhold the information at issue in its entirety under section 552.101 of the Government Code in conjunction with section 58.008(b) of the Family Code. If the suspect was under ten years of age or was seventeen years of age or older at the time of the conduct, then the department must withhold the motor vehicle record information we marked under section 552.130 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,

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/eb

Ref: ID# 975954

Enc. Submitted documents

c: Requestor
(w/o enclosures)