



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 5, 2017

Mr. Adam Anderson
Assistant County Attorney
County of Montgomery
501 North Thompson, Suite #300
Conroe, Texas 77301

OR2017-07079

Dear Mr. Anderson:

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# 651932 (PIR No. 17PIA008).

The Montgomery County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a specified incident involving a named individual. 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 public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes, including section 261.201 of the Family Code. Section 261.201 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.

Fam. Code § 261.201(a). The sheriff's office asserts the submitted information pertains to an investigation of child abuse or neglect. *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 we are unable to determine the age of the victims at issue. Thus, we must rule conditionally. If the information at issue pertains to an incident involving a victim of alleged or suspected abuse or neglect who was under the age of eighteen at the time of the incident at issue, then the information is subject to section 261.201 of the Family Code. In that case, the sheriff's office must withhold the information at issue under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. If, however, the victims in the information at issue were eighteen years of age or older at the time of the incident, section 261.201 is not applicable to this information. In that instance, we conclude the sheriff's office may not withhold the information at issue under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

Section 552.101 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 sheriff's office must withhold the information we have marked 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 a personal identification document issued by an agency of this state or another state or country is excepted from public release.¹ Gov't Code § 552.130. Upon review, we find the sheriff's office must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

In summary, to the extent the information at issue pertains to an incident involving a victim of alleged or suspected child abuse or neglect who was under the age of eighteen at the time of the incident at issue, the sheriff's office must withhold the information at issue under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. To the extent the incident at issue does not involve a victim of alleged or suspected child abuse or neglect who was under the age of eighteen at the time of the incident at issue, the sheriff's office must withhold the information we have marked under section 552.101 of

¹The 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).

the Government Code in conjunction with common-law privacy and section 552.130 of the Government Code. In that instance, the sheriff's office 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 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,



Britni Ramirez
Assistant Attorney General
Open Records Division

BR/som

Ref: ID# 651932

Enc. Submitted documents

c: Requestor
(w/o enclosures)