



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 6, 2017

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

OR2017-12340

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# 660654 (ORR# 17PIA148).

The Montgomery County Sheriff's Office (the "sheriff's office") received a request for information related to a specified prosecution of a named individual.<sup>1</sup> The sheriff's office claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception the sheriff's office claims and reviewed the submitted information.

Initially, we note the requestor excludes dates of birth from the scope of the request. Accordingly, this type of information is not responsive to the request for information. This ruling does not address the public availability of any information that is not responsive to the request and the sheriff's office is not required to release that information in response to the request.

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<sup>1</sup>The sheriff's office states it sought and received clarification of the information requested. *See Gov't Code* § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

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. Section 261.201 of the Family Code provides, in part, as follows:

(a) [T]he following information is confidential, is not subject to public release under Chapter 552, Government Code, 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 submitted information consists of a report of alleged abuse or neglect made to the sheriff’s office. However, we are unable to determine the age of the victim listed in the information at issue. *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), (1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code). Accordingly, we must rule in the alternative. If the information at issue involves a victim who was a child at the time of the incident at issue, then the information is subject to chapter 261 of the Family Code. In that instance, as the sheriff’s office does not indicate it has adopted a rule that governs the release of this type of information, the sheriff’s office must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. *See Open Records Decision No. 440 at 2 (1986)* (predecessor statute). However, if the information at issue does not involve a victim of alleged abuse or neglect who was a child at the time of the incident at issue, then the information is not subject to chapter 261 of the Family Code and the sheriff’s office may not withhold the information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. In that instance, we will consider the applicability of other exceptions to disclosure of the information at issue.

We note some of the responsive information is subject to section 552.130 of the Government Code.<sup>2</sup> 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

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<sup>2</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).*

by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130. Accordingly, the sheriff's office must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

In summary, if the submitted information involves a victim who was a child at the time of the incident at issue, then the sheriff's office must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. If the information at issue does not involve a victim of alleged abuse or neglect who was a child at the time of the incident at issue, then the sheriff's office must withhold the motor vehicle record information we marked under section 552.130 of the Government Code and must release the remaining responsive information.<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 [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](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,



Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/som

Ref: ID# 660654

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>3</sup>The information being released contains social security numbers. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. *See* Gov't Code § 552.147(b).