



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 10, 2017

Ms. Natalie Broaddus
Assistant District Attorney
Brazoria County Criminal District Attorney's Office
County Courthouse
111 East Locust, Suite 408A
Angleton, Texas 77515

OR2017-15189

Dear Ms. Broaddus:

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# 665110.

The Brazoria County Sheriff's Office (the "sheriff's office") received a request for information pertaining to two specified incidents involving a named individual.¹ You claim the submitted information is excepted from disclosure under sections 552.101, 552.130, and 552.147 of the Government Code.² We have considered the exceptions you claim and reviewed the submitted information.

¹You state the sheriff's office sought and received clarification of the request for information. *See* Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

²Although you do not raise sections 552.130 and 552.147 of the Government Code in your brief, we understand the sheriff's office to assert these exceptions based on your markings.

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. This section encompasses information made confidential by other statutes, such as section 261.201(a) of the Family Code, which 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). You state Exhibit D was used in an investigation of alleged child abuse under chapter 261 of the Family Code. *See id.* §§ 101.003(a) (defining “child” for purposes of section 261.201), 261.001(1) (defining “abuse” for purposes of section 261.201 of Family Code). You do not indicate the sheriff’s office has adopted any rules that would permit the release of the responsive information. Accordingly, we find Exhibit D is subject to chapter 261 of the Family Code. Therefore, we conclude Exhibit D is confidential pursuant to section 261.201 of the Family Code and must be withheld under section 552.101 of the Government Code.³ *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute).

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 sheriff’s office must withhold all public citizens’ dates of birth in Exhibit E 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

³As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

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 sheriff's office must withhold the motor vehicle record information you have marked, and the additional motor vehicle record information we have marked, in Exhibit E under section 552.130 of the Government Code.

Section 552.147 of the Government Code excepts from disclosure the social security number of a living person. *Id.* § 552.147. Upon review, we agree the sheriff's office may withhold the social security number you have marked in Exhibit E under section 552.147 of the Government Code.

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."⁴ Gov't Code § 552.136(b); *see id.* § 552.136(a) (defining "access device"). Upon review, we find the sheriff's office must withhold the bank account and routing numbers we have marked in Exhibit E under section 552.136 of the Government Code.

In summary, the sheriff's office must withhold Exhibit D under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. The sheriff's office must withhold all public citizens' dates of birth in Exhibit E under section 552.101 of the Government Code in conjunction with common-law privacy. The sheriff's office must withhold the motor vehicle record information you have marked, and the additional motor vehicle record information we have marked, in Exhibit E under section 552.130 of the Government Code. The sheriff's office may withhold the social security number you have marked in Exhibit E under section 552.147 of the Government Code. The sheriff's office must withhold the bank account and routing numbers we have marked in Exhibit E under section 552.136 of the Government Code. 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

⁴The 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).

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'Meredith L. Coffman', with a long, sweeping horizontal line extending to the right.

Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/tdw

Ref: ID# 665110

Enc. Submitted documents

c: Requestor
(w/o enclosures)