



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 5, 2019

Ms. Mary E. Miller  
Assistant District Attorney  
Denton County  
127 North Woodrow Lane, Suite 300  
Denton, Texas 76205

OR2019-09220

Dear Ms. Miller:

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# 758154 (ORR# S001089).

The Denton County Sheriff's Office (the "sheriff's office") received a request for information regarding two specified addresses during a specified time period that includes the requestor and three named individuals. You state you released some of the requested information. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions 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, such as section 261.201 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 [chapter 261 of the Family Code] 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 [chapter 261 of the Family Code] or in providing services as a result of an investigation.

Fam. Code § 261.201(a). The sheriff's office contends a portion of the submitted information is confidential under section 261.201. Upon review, we find the information we marked is within the scope of section 261.201 of the Family Code. *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). You have not indicated the sheriff's office has adopted a rule that governs the release of this type of information; therefore, we assume no such regulation exists. Given that assumption, the sheriff's office must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.<sup>1</sup> *See Open Records Decision No. 440 at 2 (1986)* (predecessor statute). However, we find the sheriff's office has failed to demonstrate the remaining information at issue involves a report of alleged or suspected abuse or neglect of a child made under chapter 261 or how the information was used or developed in an investigation of alleged or suspected child abuse or neglect. Therefore, the sheriff's office may not withhold the remaining information at issue under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. This office has found common-law privacy generally protects the identifying information of a juvenile victim of abuse or neglect. *See Open Records Decision No. 394 (1983)*; *cf.* Fam. Code § 261.201. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See Open Records Decision No. 455 (1987)*. The court of appeals has concluded public citizens' dates of birth are protected by common-law privacy pursuant to section 552.101. *See Paxton v. City of Dallas*, No. 03-13-00546-CV, 2015 WL 3394061, at \*3 (Tex. App.—Austin May 22, 2015,

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

pet. denied) (mem. op.). Upon review, we find some of the remaining information satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Thus, the sheriff's office must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find no portion of the remaining information is highly intimate or embarrassing information of an individual that is of no legitimate public concern. Accordingly, the sheriff's office may not withhold any of the remaining information under section 552.101 of the Government Code on the basis of common-law privacy.

In summary, the sheriff's office must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. The sheriff's office must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. 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](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,



Emily Buchanan  
Attorney  
Open Records Division

EB/mo

Ref: ID# 758154

Enc. Submitted documents

c: Requestor  
(w/o enclosures)