



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 20, 2019

Mr. Robert Spangler
Counsel for Jim Wells County Sheriff's Office
Royston, Rayzor, Vickery & Williams, L.L.P.
802 North Carancahua Suite 1300
Corpus Christi, Texas 78401

OR2019-36241

Dear Mr. Spangler:

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# 801697 (ORR 46,769).

The Jim Wells County Sheriff's Office (the "sheriff's office"), which you represent, received a request for a specified incident report. You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.1175 of the Government Code.¹ 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 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 or embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. This office has also held common-law privacy protects the identifying information of juvenile victims of abuse or neglect. *See* Open Records Decision No. 394 (1983); *cf.* Fam. Code § 261.201. Upon review, we find the information we have marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Therefore, the sheriff's office must

¹ Although you originally raised section 552.108 of the Government Code, you have not provided any arguments to support this exception. Therefore, we assume the sheriff's office has withdrawn its claim this section applies to the submitted information. *See* Gov't Code § 552.301, .302. Further, although you raise section 552.117 of the Government Code, we note section 552.1175 of the Government Code is the proper exception to raise for information not held in an employment context.

withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy.

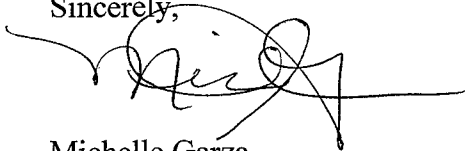
Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. Gov't Code § 552.1175. We understand the individual whose information is at issue is among the types of individuals listed in section 552.1175(a). You state, and provide documentation showing, the individual at issue elected to keep the type of information at issue, which we marked, confidential. Therefore, the sheriff's office must withhold the information we marked under section 552.1175. However, we find none of the remaining information at issue consists of personal information subject to section 552.1175 and none of it may be withheld on that basis.

In summary, 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 withhold the information we marked under section 552.1175 of the Government Code. The remaining information must be released.²

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,



Michelle Garza
Assistant Attorney General
Open Records Division

MG/rm

² We note the requestor has a right of access to some of the information being released. See Gov't Code § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Thus, if the sheriff's office receives another request for the same information from a different requestor, the sheriff's office must again seek a decision from this office.

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Enc. Submitted documents

c: Requestor
(w/o enclosures)