



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 29, 2020

Ms. DeAnne Lin
Assistant County Attorney
Harris County Attorney's Office
1019 Congress, 15th Floor
Houston, Texas 77002

OR2020-12040

Dear Ms. Lin:

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# 825296 (C.A. File No. 20PIA0084).

The Harris County Institute of Forensic Sciences (the "county") received a request for five specified reports regarding a named individual. Although the county takes no position regarding whether the submitted information is excepted from disclosure, the county states its release may implicate the privacy interests of the Pasadena Police Department (the "department"). Accordingly, the county states it notified the department of the request and of its right to submit comments to this office as to why the information at issue should not be released.¹ See Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released). We have 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."² 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

¹ As of the date of this letter, we have not received comments from the department.

² 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).

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 that common-law privacy generally 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 some of the submitted information, which we marked, meets the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the county must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. The county 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 <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,

James M. Graham
Assistant Attorney General
Open Records Division

JMG/jlbm

Ref: ID# 825296

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)