



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 29, 2020

Ms. Katie Lentz  
Open Records  
Williamson County Sheriff's Office  
508 South Rock Street  
Georgetown, Texas 78626

OR2020-27225

Dear Ms. Lentz:

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# 851887.

The Williamson County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a specified case. You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code.<sup>1</sup> 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, the following:

(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

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<sup>1</sup> As you have not provided any arguments to support the remaining claimed exceptions, we assume the sheriff's office has withdrawn its claim the remaining sections apply to the submitted information. See Gov't Code §§ 552.301, .302.

(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.

...

(k) Notwithstanding Subsection (a), an investigating agency, other than the [Texas Department of Family and Protective Services] or the Texas Juvenile Justice Department, on request, shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect, or to the child if the child is at least 18 years of age, information concerning the reported abuse or neglect that would otherwise be confidential under this section. The investigating agency shall withhold information under this subsection if the parent, managing conservator, or other legal representative of the child requesting the information is alleged to have committed the abuse or neglect.

(l) Before a child or a parent, managing conservator, or other legal representative of a child may inspect or copy a record or file concerning the child under Subsection (k), the custodian of the record or file must redact:

(1) any personally identifiable information about a victim or witness under 18 years of age unless that victim or witness is:

(A) the child who is the subject of the report; or

(B) another child of the parent, managing conservator, or other legal representative requesting the information; [and]

(2) any information that is excepted from required disclosure under [the Act], or other law[.]

Gov't Code § 261.201(a), (k), (l)(1)-(2). Upon review, we find the submitted information was used or developed in an investigation of alleged or suspected child abuse or neglect under chapter 261 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). Accordingly, we agree the submitted information is within the scope of section 261.201(a). As you acknowledge, the requestor is a parent of the child victim and is not alleged to have committed the suspected abuse. Thus, the sheriff's office may not withhold the submitted information from this requestor on the basis of section 261.201(a). *See id.* § 261.201(k). However, section 261.201(l)(1) states any personally identifiable information about a victim or witness who is under 18 years of age and is not the child of the parent, managing conservator, or other legal representative requesting the information shall be withheld from disclosure. *Id.* § 261.201(l)(1). You state the sheriff's office does not have the

technological capability to redact information from the submitted video recordings. Therefore, the sheriff's office must withhold the information we marked and the submitted video recordings in their entirety under section 552.101 of the Government Code in conjunction with section 261.201(1)(1) of the Family Code.<sup>2</sup> However, none of the remaining information is subject to 261.201(1)(1) and none of it may be withheld under section 552.101 of the Government Code on that basis. Furthermore, section 261.201(1)(2) states any information that is excepted from required disclosure under the Act or other law must still be withheld from disclosure. *Id.* § 261.201(1)(2). Therefore, we will consider your remaining arguments against disclosure of the information at issue.

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. 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, pet. denied) (mem. op.). We note the requestor has a right of access to private information pertaining to himself and his minor child pursuant to section 552.023 of the Government Code. *See Gov't Code* § 552.023(a) (“[a] person or a person’s authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person’s privacy interests”); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves).

Upon review, we find portions of the remaining information satisfy the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Thus, except for the dates of birth of the requestor and the requestor's minor child, the sheriff's office must withhold the remaining dates of birth of identifiable public citizens under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find the remaining information pertains to individuals who have been de-identified, and their privacy interest are, thus, protected. Accordingly, we find you have failed to demonstrate the remaining information is highly intimate or embarrassing and not of legitimate public concern. Thus, none of the remaining information may be withheld under section 552.101 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 identification document issued by an agency of this state or another state or country is

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<sup>2</sup> As our ruling is dispositive, we need not address your remaining argument against disclosure of this information or the applicability of section 1701.661(a) of the Occupations Code. *See generally* Occ. Code § 1701.661(a), (e).

excepted from public release. Gov't Code § 552.130. Accordingly, the sheriff's office must withhold the motor vehicle record information you marked and discernible license plates in the submitted photographs under section 552.130 of the Government Code.

In summary, the sheriff's office must withhold the information we marked and the submitted video recordings in their entirety under section 552.101 of the Government Code in conjunction with section 261.201(l)(1) of the Family Code. Except for the dates of birth of the requestor and the requestor's minor child, the sheriff's office must withhold the remaining dates of birth of identifiable public citizens 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 marked and discernible license plates in the submitted photographs under section 552.130 of the Government Code. The sheriff's office must release the remaining 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 <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

MRG/gw

Ref: ID# 851887

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>3</sup>We note requestor has a right of access to the information being released in this instance. See Fam. Code § 261.201(k); Gov't Code § 552.023(a); ORD 481 at 4. Because such information is confidential with respect to the general public, if the sheriff's office receives another request for this information from a different requestor, then the sheriff's office must again seek a ruling from this office.