



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 31, 2022

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

OR2022-09450

Dear Ms. Hutson:

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# 939752.

The Williamson County Sheriff's Office (the "sheriff's office") received two requests for information pertaining to a specified address during specified time periods. You state you will redact dates of birth pursuant to Open Records Letter No. 2016-21706 (2016).<sup>1</sup> You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.152 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note some of the submitted information, which we marked, is not responsive to the instant request for information because it was created after the current requests for information were received. This ruling does not address the public availability of any information that is not responsive to the request, and the sheriff's office is not required to release such information in response to this request.

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<sup>1</sup> Open Records Letter No. 2016-21706 is a previous determination issued to the sheriff's office authorizing it to withhold the dates of birth of public citizens under section 552.101 of the Government Code in conjunction with common-law privacy without seeking a ruling from this office. *See* Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code).

Section 552.101 of the Government Code exempts from public disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This section encompasses information protected by other statutes. Section 261.201 of the Family Code provides, in part, as follows:

(a) [T]he following information is confidential, is not subject to public release under Chapter 552, Government Code, 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 argue portions of the remaining information are subject to section 261.201 of the Family Code. Upon review, we find you have demonstrated some of the remaining information relates to an investigation of alleged or suspected child abuse or neglect conducted by the sheriff’s office. *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 (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code). Accordingly, we find report number 2020-06-01046 and event report numbers 2014-147355, 2020-214510, and 2020-217907 are subject to section 261.201 of the Family Code. You do not indicate 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, we conclude report number 2020-06-01046 and event report numbers 2014-147355, 2020-214510, and 2020-217907 are confidential pursuant to section 261.201 of the Family Code, and the sheriff’s office must withhold this information under section 552.101 of the Government Code.<sup>2</sup> *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute). However, we find you have failed to establish the remaining information you marked consists of files, reports, records, communications, or working papers used or developed in an investigation under chapter 261. Further, we find you have not demonstrated the remaining information consists of a report of child abuse or neglect. *See* Fam. Code § 261.001(1), (4). Therefore, we conclude section 261.201 is not applicable to the remaining information at issue, and the sheriff’s office may not withhold the remaining information at issue under section 552.101 of the Government Code on that basis.

Section 552.108(a) of the Government Code exempts from disclosure “[i] nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or

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<sup>2</sup> As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must explain how and why the release of the information at issue would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706, 710 (Tex. 1977). The sheriff’s office states the remaining information it marked relates to pending criminal prosecutions. Based on this representation, we conclude the release of the remaining information you marked would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177, 186-87 (Tex. Civ. App.—Houston [14th Dist.] 1975) (delineating law enforcement interests present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, section 552.108(a)(1) is applicable to the remaining information at issue.

Section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov’t Code § 552.108(c). Basic information refers to the information held to be public in the *Houston Chronicle* decision. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle* decision). Thus, with the exception of basic information, the sheriff’s office may withhold the remaining information you marked under section 552.108(a)(1) of the Government Code.<sup>3</sup>

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 the *Industrial Foundation* decision. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). Upon review, we agree the remaining information the sheriff’s office marked satisfies the standard articulated by the Texas Supreme Court in the *Industrial Foundation* decision. Accordingly, the sheriff’s office must withhold the remaining information you marked, in addition to the information we marked, 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 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 remaining motor vehicle record information you marked, in addition to the information we marked, under section 552.130 of the Government Code.

Section 552.152 of the Government Code provides:

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

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from [required public disclosure] if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

*Id.* § 552.152. The sheriff's office represents the release of the undercover officer's identity would subject the officer to a substantial threat of physical harm. Therefore, we find section 552.152 is applicable to the identity of the undercover officer within the information at issue. Accordingly, the sheriff's office must withhold the identifying information of the undercover officer you marked under section 552.152 of the Government Code.

In summary, the sheriff's office must withhold report number 2020-06-01046 and event report numbers 2014-147355, 2020-214510, and 2020-217907 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. With the exception of basic information, the sheriff's office may withhold the remaining information you marked under section 552.108(a)(1) of the Government Code. The sheriff's office must withhold the remaining information you marked under section 552.101 of the Government Code in conjunction with common-law privacy. The sheriff's office must withhold the remaining motor vehicle record information you marked, in addition to the information we marked, under section 552.130 of the Government Code. The sheriff's office must withhold the identifying information of the undercover officer you marked under section 552.152 of the Government Code. The remaining responsive information must be released.

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,

Melanie Villars  
Assistant Attorney General  
Open Records Division

MJV/jm

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Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)