



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 21, 2022

Ms. Leigh Ann Tognetti  
Assistant District Attorney  
Hidalgo County  
100 East Cano Street  
Edinburg, Texas 78539

OR2022-39770

Dear Ms. Tognetti:

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# 992113 (ORR# 2022-264).

The Hidalgo County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a specified incident. The sheriff's office claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

Section 552.1315 of the Government Code is applicable to some of the submitted information.<sup>1</sup> Section 552.1315(a)(1) reads, in part, as follows:

(a) Information is confidential and excepted from the [Act] if the information identifies an individual as:

(1) a victim of:

(A) an offense under [s]ection 20A.02, 20A.03, 21.02, 21.11, 22.011, 22.021, 43.05, or 43.25, Penal Code; or

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<sup>1</sup> The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987).

(B) an offense that is part of the same criminal episode, as defined by [s]ection 3.01, Penal Code, as an offense described by Paragraph (A)[.]

*Id.* § 552.1315(a)(1). Section 552.1315(a)(1) pertains to information containing the identifying information of victims of human trafficking, sexual abuse of a child, indecency with a child, sexual assault, aggravated sexual assault, compelling prostitution, and sexual performance by a child. The submitted information contains the names of victims of human trafficking. There is no indication section 552.1315(b) is applicable. Therefore, the sheriff's office must withhold the submitted names of victims of human trafficking under section 552.1315 of the Government Code.<sup>2</sup>

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 and embarrassing by the Texas Supreme Court are delineated in the *Industrial Foundation* decision. *Id.* at 683. The Third 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.). However, this office has also found the public has a legitimate public interest in the details of a crime. *See Open Records Decision No. 400* at 4 (1983). *See generally Lowe v. Hearst Communications, Inc.*, 487 F.3d 246, 250 (5th Cir. 2007) (noting "legitimate public interest in facts tending to support an allegation of criminal activity" (citing *Cinel v. Connick*, 15 F.3d 1338, 1345-46 (1994))). The sheriff's office must withhold the submitted dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find none of the remaining information satisfies the standard articulated by the Texas Supreme Court in the *Industrial Foundation* decision. Accordingly, the remaining information is not confidential under common-law privacy, and the sheriff's office may not withhold it under section 552.101 on that ground.

In summary, the sheriff's office must withhold the submitted names of victims of human trafficking under section 552.1315 of the Government Code. The sheriff's office must also withhold the submitted dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy. The sheriff's office must release the remaining information.

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<sup>2</sup> As our ruling is dispositive, we do not address the arguments of the sheriff's office to withhold this 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 L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/mo

Ref: ID# 992113

Enc. Submitted documents

c: Requestor  
(w/o enclosures)