



**ATTORNEY GENERAL OF TEXAS**  
**GREG ABBOTT**

June 20, 2012

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

OR2012-09473

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# 456924.

The Williamson County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a specific case number. You claim portions of the submitted information are excepted from disclosure under sections 552.101, 552.136, and 552.152 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the requestor does not seek access to any social security or Texas driver's license, license plate or vehicle identification numbers contained in the submitted information. Thus, those types of information are not responsive to the request. This ruling does not address the public availability of any of information that is not responsive to the request, and the sheriff's office need not release any such information in response to this request.

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." Gov't Code § 552.101. This section encompasses information protected by other statutes, such as section 261.201 of the Family Code, which provides 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). We note a portion of the submitted information relates to an investigation of alleged or suspected child abuse or neglect conducted by the Department of Family and Protective Services. *See id.* §§ 261.001 (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code), 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). Accordingly, we find this information is subject to chapter 261 of the Family Code. We conclude the information at issue, which we have marked, is confidential pursuant to section 261.201 of the Family Code, and the sheriff’s office must withhold it under section 552.101 of the Government Code. *See Open Records Decision No. 440 at 2 (1986) (predecessor statute).*

Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy, which protects information if it (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is 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. The type of information considered intimate or embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. This office has found some kinds of medical information or information indicating disabilities or specific illnesses are excepted from required public disclosure under common-law privacy. *See Open Records Decision Nos. 455 (1987) (information pertaining to prescription drugs, specific illnesses, operations and procedures, and physical disabilities protected from disclosure), 422 (1984), 343 (1982).* Upon review, we agree some of the submitted information is highly intimate or embarrassing and not of legitimate public concern. Thus, the sheriff’s office must withhold the information you have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.136 of the Government Code provides, “[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” Gov’t Code § 552.136(b); *see id.* § 552.136(a) (defining “access device”). Accordingly, the sheriff’s office must withhold the credit card number, expiration date, and security code you have marked under section 552.136 of the Government Code.

Section 552.152 of the Government Code provides as follows:

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.

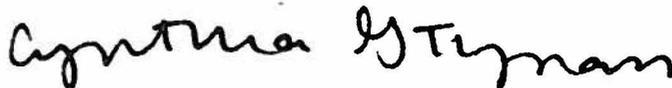
*Id.* § 552.152. You state the information you have marked under section 552.152 identifies a deputy of the sheriff's office who was working undercover. You seek to withhold the deputy's name from the submitted information. You represent to this office that the release of the deputy's name would subject the officer to a substantial threat of physical harm. Based on your representations, we find the sheriff's office has demonstrated that release of the information at issue would subject the officer to a substantial threat of physical harm. Based on your representations and our review, we conclude the sheriff's office must withhold the information you have marked under section 552.152 of the Government Code.

In summary, in conjunction with section 552.101 of the Government Code, the sheriff's office must withhold the information we have marked under section 261.201 of the Family Code, and the information you have marked under common-law privacy. The sheriff's office must also withhold the information you have marked under sections 552.136 and 552.152 of the Government Code. The sheriff's office 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 [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Cynthia G. Tynan  
Assistant Attorney General  
Open Records Division

CGT/bs

Ref: ID# 456924

Enc. Submitted documents

c: Requestor  
(w/o enclosures)