



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 16, 2013

Sheriff Wayne Bradford  
Eastland County Sheriff's Office  
201 West White Street  
Eastland, Texas 76448

OR2013-06169

Dear Sheriff Bradford:

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# 484181.

The Eastland County Sheriff's Office (the "sheriff's office") received a request for all reports from a specified time period related to ten specified categories of offenses. You claim some of the submitted information is excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted information.

Initially, we note a portion of the submitted information, which we have marked, is not responsive because it does not pertain to one of the ten specified categories of offenses. The sheriff's office need not release non-responsive information in response to this request, and this ruling will not address that 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 as follows:

(a) [T]he following information is confidential, is not subject to public release under [the Act] and may be disclosed only for purposes consistent

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<sup>1</sup>We understand you to raise section 552.101 of the Government Code based on the substance of your arguments.

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). Upon review, we find the information we have marked was used or developed in an investigation of alleged child abuse conducted by the sheriff's office. *See id.* § 261.001(1) (defining "abuse" for purposes of chapter 261 of the Family Code); *see also 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). Therefore, this information falls within the scope of section 261.201(a). As you do not state the sheriff's office has adopted a rule that governs the release of this type of information, we assume none exists. Given that assumption, we conclude the marked information is confidential under section 261.201(a) of the Family Code, and the sheriff's office must withhold it in its entirety under section 552.101 of the Government Code. *See* Open Records Decision No. 440 at 2 (1986) (addressing 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) the information is not of legitimate concern to the public. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976). 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. *See id.* at 683. Generally, only the information that either identifies or tends to identify a victim of sexual assault or other sex-related offense may be withheld under common-law privacy. *See* Open Records Decision Nos. 440 (1986), 393 (1983), 339 (1982). However, a governmental body is required to withhold an entire report when identifying information is inextricably intertwined with other releasable information or when the requestor knows the identity of the alleged victim. *See* ORD Nos. 393, 339; *see also* ORD 440 (detailed descriptions of serious sexual offenses must be withheld). Some of the remaining information relates to alleged sexual assaults. You seek to withhold this information in its entirety. However, there is no indication in this instance the requestor knows the identity of the alleged sexual assault victims. Thus, the sheriff's office may not withhold the information at issue in its entirety. However, we find the information we have marked is highly intimate or embarrassing and not of legitimate public concern. Thus, the

sheriff's office must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. Upon review, we find no portion of the remaining information is highly intimate or embarrassing and not of legitimate public concern. Thus, the sheriff's office may not withhold any portion of the remaining information under section 552.101 in conjunction with common-law privacy.

We note some of the remaining information is subject to section 552.130 of the Government Code, which excepts from disclosure "information [that] relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country [or] a motor vehicle title or registration issued by an agency of this state or another state or country[.]"<sup>2</sup> See Gov't Code § 552.130(a)(1)-(2). Thus, the sheriff's office must withhold the information we have marked under section 552.130 of the Government Code.

In summary, the sheriff's office must withhold the information we have marked under: (1) section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code; (2) section 552.101 of the Government Code in conjunction with common-law privacy; and (3) section 552.130 of the Government Code. The sheriff's office must release the remaining responsive 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,



Jennifer Burnett  
Assistant Attorney General  
Open Records Division

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<sup>2</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Ref: ID# 484181

Enc. Submitted documents

c: Requestor  
(w/o enclosures)