



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 1, 2017

Mr. Adam Anderson
Assistant County Attorney
Montgomery County
501 North Thompson, Suite 300
Conroe, Texas 77301

OR2017-09209

Dear Mr. Anderson:

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# 655639 (Ref. No. 17PIA092).

The Montgomery County Sheriff's Office (the "sheriff's office") received a request for information pertaining to two specified reports. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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. Upon review, we find some of the submitted information consists of motor vehicle record information subject to section 552.130. You state the sheriff's office does not have the technological capability to redact the motor vehicle record information from the dash camera video recordings. Accordingly, the sheriff's office must withhold the dash camera video recordings we have indicated in their entirety, and the additional motor vehicle record information we have marked, under section 552.130 of the Government Code.¹ *See* Open Records Decision

¹As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

No. 364 (1983). However, you have failed to demonstrate the remaining dash camera video recording contains information that is subject to section 552.130. Thus, the sheriff's office may not withhold the remaining dash camera video recording under section 552.130 of the Government Code.

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 *Industrial Foundation*. *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). 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.). Upon review, we conclude some of the remaining information meets the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the sheriff's office must withhold all public citizens' dates of birth and the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find no portion of the remaining information is highly intimate or embarrassing and of no legitimate public concern, and the sheriff's office may not withhold any of the remaining information under section 552.101 of the Government Code on the basis of common-law privacy.

In summary, the sheriff's office must withhold the dash camera video recordings we have indicated in their entirety, and the additional motor vehicle record information we have marked, under section 552.130 of the Government Code. The sheriff's office must withhold all public citizens' dates of birth and the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'Meredith L. Coffman', with a long horizontal flourish extending to the right.

Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/bw

Ref: ID# 655639

Enc. Submitted documents

c: Requestor
(w/o enclosures)