



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 24, 2017

Mr. Brandon S. Shelby
City Attorney
City of Sherman
P.O. Box 1106
Sherman, Texas 75091

OR2017-16469

Dear Mr. Shelby:

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# 667722 (OR-2847-SPD#088).

The Sherman Police Department (the "department") received a request for information pertaining to a specified incident report. 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 552.101 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 (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. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. In addition, this office has concluded some kinds of medical information are generally intimate or embarrassing. *See* Open Records Decision No. 455 (1987). This office has also found personal financial information not relating to a financial transaction between an individual and a governmental body is generally excepted from required public disclosure under common-law privacy. *See* Open Records Decision No. 545 (1990) (deferred compensation information, participation in voluntary investment program, election of optional insurance coverage, mortgage payments, assets, bills, and credit history). 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 find portions of the submitted information satisfy the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the department must withhold all public citizens' dates of birth, the information we have marked, and the portions of the video recordings we have indicated, under section 552.101 of the Government Code in conjunction with common-law privacy. However, you have failed to demonstrate the remaining information is highly intimate or embarrassing and of no legitimate public interest. Thus, the remaining information may not be withheld under section 552.101 of the Government Code in conjunction with common-law privacy.

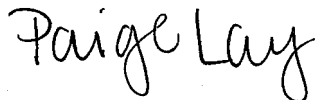
Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. See Gov't Code § 552.130. Accordingly, the department must withhold the information we have marked under section 552.130 of the Government Code.

In summary, the department must withhold all public citizens' dates of birth, the information we have marked, and the portions of the video recordings we have indicated, under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the information we have marked under section 552.130 of the Government Code. The department 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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/som

Ref: ID# 667722

Enc. Submitted documents

c: Requestor
(w/o enclosures)