



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 26, 2017

Mr. Brandon S. Shelby
City Attorney
City of Sherman
P.O. Box 1106
Sherman, Texas 75901

OR2017-16782

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# 667853 (Your Ref. No. OR-2486/SPD#084).

The Sherman Police Department (the "department") received a request for a recording pertaining to a specified incident. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note portions of the submitted video recordings we have indicated are not responsive to the instant request for information because they do not pertain to the specified incident. This ruling does not address the public availability of non-responsive information, and the department is not required to release non-responsive information in response to this request.

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). Upon review, we find the information we have indicated satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the department must withhold the information we have indicated under section 552.101 of the Government Code in conjunction with common-law privacy. However, the department has failed to demonstrate the remaining information at issue is highly intimate or embarrassing and of no legitimate public interest. Thus, the department may not withhold the remaining responsive information under section 552.101 of the Government Code in conjunction with common-law privacy.

We note the submitted video recordings contain information subject to section 552.130 of the Government Code, which provides information relating to a motor vehicle operator's or 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.¹ Gov't Code § 552.130(a). Upon review, we find the department must withhold the discernable motor vehicle record information contained in the video recordings under section 552.130 of the Government Code.

In summary, the department must withhold the information we have indicated under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the discernable motor vehicle record information contained in the video recordings under section 552.130 of the Government Code. The department 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.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

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Kelly McWethy
Assistant Attorney General
Open Records Division

KSM/sb

Ref: ID# 667853

Enc. Submitted documents

c: Requestor
(w/o enclosures)