



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

September 6, 2017

Ms. Tamma Willis  
McLennan County Sheriff's Office  
901 Washington Avenue  
Waco, Texas 76701

OR2017-20292

Dear Ms. Willis:

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# 671943.

The McLennan County Sheriff's Office (the "sheriff's office") received a request for information related to a specified incident and two named individuals. You state you have released some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.107 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.107(2) provides information is excepted from disclosure if "a court by order has prohibited disclosure of the information." Gov't Code § 552.107(2). Article 18.21 of the Code of Criminal Procedure permits a court to issue an order authorizing the disclosure of contents, records, or other information of a wire or electronic communication. Crim. Proc. Code art. 18.21, § 5(a). Section 2 of article 18.21 states the court "shall seal an application and order granted under this article." *Id.* § 2(g).

In this instance, the submitted information consists of applications filed and court orders granted under article 18.21. You indicate, and the orders and applications submitted likewise reflect, the orders and applications at issue are filed under seal. As the documents at issue have been sealed by a court pursuant to article 18.21, we conclude the sheriff's office must withhold the submitted orders and applications under section 552.107(2) of the Government

Code.<sup>1</sup> However, we find section 2(g) of article 18.21 and the submitted orders do not prohibit the sheriff's office from releasing the submitted cellular telephone records to the requestor pursuant to the Act. Thus, we conclude you have not established a court has prohibited disclosure of any of the remaining information at issue to the requestor. Therefore, we find the sheriff's office may not withhold any of the remaining information at issue from the requestor under section 552.107(2) 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. This section 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. We note the public has a legitimate interest in knowing the general details of a crime. *See generally Lowe v. Hearst Communications, Inc.*, 487 F.3d 246, 250 (5th Cir. 2007) (noting a "legitimate public interest in facts tending to support an allegation of criminal activity" (citing *Cinel v. Connick*, 15 F.3d 1338, 1345-46 (5th Cir. 1994))); *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177, 186-87 (public has legitimate interest in details of crime and police efforts to combat crime in community), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Upon review, we find none of the remaining information is highly intimate or embarrassing information and of no legitimate public interest, and it may not be withheld under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the sheriff's office must withhold the submitted orders and applications under section 552.107(2) 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.

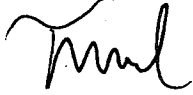
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

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<sup>1</sup>As our ruling is dispositive, we need not address the remaining argument against disclosure of this information.

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 "Tim Neal". The signature is written in a cursive, flowing style.

Tim Neal  
Assistant Attorney General  
Open Records Division

TN/tdw

Ref: ID# 671943

Enc. Submitted documents

c: Requestor  
(w/o enclosures)