



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 5, 2017

Mr. John M. Cooper
Assistant Criminal District Attorney
Rockwall County
1111 East Yellowjacket Lane, Suite 201
Rockwall, Texas 75087

OR2017-27610

Dear Mr. Cooper:

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# 686519.

The Rockwall County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a specified report. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses the common-law physical safety exception. The Texas Supreme Court has recognized a separate common-law physical safety exception to required disclosure. *Tex. Dep't of Pub. Safety v. Cox Tex. Newspapers, L.P. & Hearst Newspapers, L.L.C.*, 343 S.W.3d 112, 118 (Tex. 2011). Pursuant to this common-law physical safety exception, "information may be withheld [from public release] if disclosure would create a substantial threat of physical harm." *Id.* In applying this new standard, the court noted "deference must be afforded" law enforcement experts regarding the probability of harm, but further cautioned, "vague assertions of risk will not carry the day." *Id.* at 119.

¹Although we also understand you to raise section 552.101 of the Government Code in conjunction with section 1706.661(e) of the Occupations Code, we note this section is not an exception to disclosure under the Act. Rather, this section permits a governmental body to release certain information or seek a ruling from this office in compliance with the Act. *See* Occ. Code § 1701.661(e).

The sheriff's office argues the submitted information is excepted under section 552.101 of the Government Code in conjunction with the common-law physical safety exception. The sheriff's office states the subject of the body-worn camera recording is reporting conduct that "makes him and his family feel unsafe." Upon review, we conclude the sheriff's office has made only vague assertions of risk of harm that could result from the disclosure of any of the information at issue. Thus, the sheriff's office has not demonstrated release of any of the information at issue would subject anyone to a specific risk of harm. Accordingly, the sheriff's office may not withhold any of the information at issue under section 552.101 of the Government Code in conjunction with the common-law physical safety exception.

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.² See Gov't Code § 552.130. Accordingly, the sheriff's office must withhold the motor vehicle record information we indicated under section 552.130 of the Government Code. As the sheriff's office raises no further exceptions to disclosure, the remaining information must be released.

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,



Kaelan A. Henze
Assistant Attorney General
Open Records Division

KAH/gw

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

Ref: ID# 686519

Enc. Submitted documents

c: Requestor
(w/o enclosures)