



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 4, 2019

Ms. Katie Lentz  
Open Records  
Williamson County Sheriff's Office  
508 South Rock Street  
Georgetown, Texas 78626

OR2019-14757

Dear Ms. Lentz:

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# 774570.

The Williamson County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a specified incident involving named individuals. You claim the submitted information is excepted from disclosure under sections 552.101, 552.1175, 552.130, 552.136, and 552.152 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.301(e)(1)(D) of the Government Code states a governmental body asking for an attorney general decision must, within fifteen business days of receiving a request, provide the attorney general with "a copy of the specific information requested, *or submit representative samples of information if a voluminous amount of information was requested[.]*" Gov't Code § 552.301(e)(1)(D) (emphasis added). We note you have submitted a voluminous amount of information rather than a representative sample. The information submitted includes 24 compact discs containing over nineteen hours of audio and video recordings. We have identified and reviewed a representative sample of the voluminous information submitted.<sup>1</sup>

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<sup>1</sup>To the extent the sheriff's office identifies confidential information subject to a provision not addressed in this ruling, the sheriff's office should contact the Open Government Hotline.

Section 552.101 of the Government Code exempts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. Section 552.101 encompasses common-law privacy. Common-law privacy protects information if it (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. *Industrial Found. v. Texas 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 established. *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). This office has also found personal financial information not relating to a financial transaction between an individual and a governmental body is generally highly intimate or embarrassing. *See* Open Records Decision Nos. 600 (1992) (personal financial information includes choice of a particular insurance carrier), 523 (1989) (common-law privacy protects credit reports, financial statements, and other personal financial information), 373 (1983) (sources of income not related to financial transaction between individual and governmental body protected under common-law privacy). 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 submitted information meets the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the sheriff’s office must withhold the information you indicated and the additional information we indicated under section 552.101 of the Government Code in conjunction with common-law privacy. Additionally, you assert, and we agree, some of the submitted video recordings contain information that is confidential under common-law privacy. In this instance, you state the sheriff’s office does not possess the technological capability to redact information from video files. Thus, the sheriff’s office must also withhold the video recordings at issue in their entirety under section 552.101 of the Government Code in conjunction with common-law privacy.<sup>2</sup> *See* Open Records Decision No. 364 (1983).

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 sheriff’s office must withhold the motor vehicle record information you indicated under section 552.130 of the Government Code. Additionally, you assert, and we agree, some of the remaining video recordings contain confidential motor vehicle record information that is excepted from disclosure under section 552.130. As noted above, you state the sheriff’s office does not possess the technological capability to redact information from video files. Thus, the

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<sup>2</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

sheriff's office must also withhold the video recordings you indicated in their entirety under section 552.130 of the Government Code.<sup>3</sup> *See* ORD 364.

Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. Gov't Code § 552.1175. Section 552.1175 applies, in part, to "peace officers as defined by Article 2.12, Code of Criminal Procedure[.]" *Id.* § 552.1175(a)(1). Upon review, we find the information you indicated may be subject to section 552.1175. Thus, to the extent the information you indicated relates to a licensed peace officer who elects to restrict access to his information in accordance with section 552.1175(b) of the Government Code, the sheriff's office must withhold it under section 552.1175 of the Government Code. However, if the individual whose information is at issue is not currently a licensed peace officer or does not elect to restrict access to the information in accordance with section 552.1175(b), the information you indicated may not be withheld under section 552.1175 of the Government Code.

Section 552.136(b) of the Government Code provides, "[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." *Id.* § 552.136(b); *see id.* § 552.136(a) (defining "access device"). Upon review, we agree the sheriff's office must withhold the information you indicated under section 552.136 of the Government Code.

Section 552.152 of the Government Code provides:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

*Id.* § 552.152. You inform us the information you indicated identifies undercover deputies of the sheriff's office. You assert release of the deputies' identities would place the deputies at risk and subject the deputies to a substantial threat of physical harm. Therefore, we find section 552.152 is applicable to the information at issue. Accordingly, the sheriff's office must withhold the information you indicated under section 552.152 of the Government Code.

In summary, the sheriff's office must withhold the information you indicated, the additional information we indicated, and the video recordings at issue in their entirety, under section 552.101 of the Government Code in conjunction with common-law privacy. The sheriff's

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<sup>3</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

office must withhold the information you indicated, including the video recordings at issue in their entireties, under section 552.130 of the Government Code. To the extent the information at issue relates to a licensed peace officer who elects to restrict access to his information in accordance with section 552.1175(b) of the Government Code, the sheriff's office must withhold the information you indicated under section 552.1175 of the Government Code. The sheriff's office must withhold the information you indicated under section 552.136 of the Government Code. The sheriff's office must withhold the information you indicated under section 552.152 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 providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Kieran Hillis  
Assistant Attorney General  
Open Records Division

KH/gw

Ref: ID# 774570

Enc. Submitted documents

c: Requestor  
(w/o enclosures)