



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 31, 2020

Mr. Micah Fernandes
Counsel for the City of Watauga
Russell Rodriguez Hyde Bullock, LLP
1633 Williams Drive, Building 2, Suite 200
Georgetown, Texas 78628

OR2019-32409A

Dear Mr. Fernandes:

This office issued Open Records Letter No. 2019-32409 (2019) on November 18, 2019. Since that date, we have received new information that affects the facts on which this ruling was based. We have examined this ruling and determined we will correct the previously issued ruling. *See generally* Gov't Code § 552.011 (providing that Office of Attorney General may issue decision to maintain uniformity in application, operation, and interpretation of Public Information Act (the "Act"), chapter 552 of the Government Code). Consequently, this decision serves as the correct ruling and is a substitute for the decision issued on November 18, 2019. Your request was assigned ID# 814321 (PIA 19-856/RT 1818).

The City of Watauga (the "city"), which you represent, received a request for all call detail reports pertaining to a specified address, including two specified reports and certain body worn camera recordings. You state the city released some information to the requestor. You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

Section 552.130 of the Government Code excepts from public disclosure 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. *See id.* § 552.130. Upon review, we find portions of the submitted recordings contain motor vehicle record information that is excepted from disclosure under section 552.130. In this instance, you state the city does not possess the technological capability to redact information from video files. Thus, the city must withhold the submitted recordings under section 552.130 of the Government Code.¹ *See* Open Records Decision No. 364 (1983).

Section 552.101 of the Government Code excepts from public 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 you marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the city must withhold the information you marked under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the city must withhold the submitted recordings under section 552.130 of the Government Code. The city must withhold the information you marked under section 552.101 of the Government Code in conjunction with common-law privacy. The city 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable

¹ As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.

charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "James M. Graham". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

James M. Graham
Assistant Attorney General
Open Records Division

JMG/mo

Ref: ID# 814321

Enc. Submitted documents

c: Requestor
(w/o enclosures)