



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

March 18, 2020

Mr. Joshua Humphreys  
Counsel for Victoria County Sheriff's Office  
Allison, Bass & Magee, L.L.P.  
402 West 12<sup>th</sup> Street  
Austin, Texas 78701

OR2020-08521

Dear Mr. Humphreys:

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# 823999.

The Victoria County Sheriff's Office (the "sheriff's office"), which you represent, received a request for reports and e-mails regarding a named individual. 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.

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 or embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683.

Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated that the requestor knows

the identity of the individual involved, as well as the nature of certain incidents, the entire report must be withheld to protect the individual's privacy. In this instance, although you seek to withhold the submitted information in its entirety, you have not demonstrated, nor does it otherwise appear, this is a situation in which the information must be withheld in its entirety on the basis of common-law privacy. Upon our review, however, we note portions of the information satisfy the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the sheriff's office must withhold the information we have marked under section 552.101 in conjunction with common-law privacy. However, we find you have failed to demonstrate the remaining information is highly intimate or embarrassing and not of legitimate public concern. Therefore, the sheriff's office may not withhold the remaining information under section 552.101 on this basis.

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.<sup>1</sup> 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). Some of the remaining information pertains to a peace officer not employed by the sheriff's office. Thus, to the extent the information we have marked pertains to a peace officer who is currently licensed under article 2.12 and the officer elects to restrict access to his information in accordance with section 552.1175(b), the sheriff's office must withhold the information we have marked under section 552.1175.

In summary, the sheriff's office must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. To the extent the information we have marked pertains to a peace officer who is currently licensed under article 2.12 of the Code of Criminal Procedure and the officer elects to restrict access to his information in accordance with subsection (b), the sheriff's office must withhold the information we have marked under section 552.1175 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 <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

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<sup>1</sup> The 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).

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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,

Lindsay E. Hale  
Assistant Attorney General  
Open Records Division

LEH/mo

Ref: ID# 823999

Enc. Submitted documents

c: Requestor  
(w/o enclosures)