



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 6, 2020

Mr. Andrew Wipke
Assistant County Attorney
Fort Bend County
401 Jackson Street, 3rd Floor
Richmond, Texas 77469

OR2020-16934

Dear Mr. Wipke:

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# 834748.

The Fort Bend County Sheriff's Office (the "sheriff's office") received a request for all information pertaining to a specified motor vehicle accident. You state the sheriff's office will release some information to the requestor, including the responsive accident report. *See* Transp. Code § 550.065(c) (providing for the release of accident report to person or entity listed under this subsection). You claim the submitted information is excepted from disclosure under sections 552.101, 552.130, and 552.136 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* Gov't Code § 552.130. Upon review, we find the submitted video recordings, some of the submitted photographs, and one of the submitted audio recordings contain motor vehicle record information subject to section 552.130. You state the sheriff's office lacks the technological capability to redact the confidential information in the audio and video recordings at issue. However, because the sheriff's office had the ability to copy the audio recording at issue in order to submit it for our review, we believe the sheriff's office has the capability to produce a copy of only the non-confidential portions of the audio recording. We note section 552.130 protects personal privacy. Thus, the requestor has a

right of access to her client's motor vehicle record information under section 552.023 of the Government Code and it may not be withheld under section 552.130. *See id.* § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Accordingly, the sheriff's office must withhold the submitted video recordings in their entirety and, with the exception of the information pertaining to the requestor's client, the information we indicated under section 552.130 of the Government Code.¹ *See* Open Records Decision No. 364 (1983). However, we find the remaining information does not contain motor vehicle record information, and the sheriff's office may not withhold any portion of the remaining information under section 552.130 of the Government Code.

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. Upon review, we find none of the remaining information satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Therefore, the remaining information is not confidential under common-law privacy, and the sheriff's office may not withhold it under section 552.101 of the Government Code on that ground.

Section 552.136 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." Gov't Code § 552.136(b); *see id.* § 552.136(a) (defining "access device"). Upon review, we find you have not demonstrated any of the remaining information consists of a credit card, debit card, or charge card number, or is an access device number used to obtain money, goods, services, or any item of value, or used to initiate the transfer of funds. *See id.* §§ 552.136(a), .301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies). Therefore, we find the sheriff's office may not withhold any of the remaining information under section 552.136 of the Government Code.

In summary, the sheriff's office must withhold the submitted video recordings in their entirety and, with the exception of the information pertaining to the requestor's client, the

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

information we indicated under section 552.130 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 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,

James M. Graham
Assistant Attorney General
Open Records Division

JMG/be

Ref: ID# 834748

Enc. Submitted documents

c: Requestor
(w/o enclosures)