



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 13, 2020

Mr. Robert J. Davis
Counsel for the Collin County Sheriff's Office
Matthews, Shiels, Knott, Eden, Davis, & Beanland, L.L.P.
8131 LBJ Freeway, Suite 700
Dallas, Texas 75251

OR2020-20280

Dear Mr. Davis:

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# 839842 (File No. 1600.70045).

The Collin County Sheriff's Office (the "sheriff's office"), which you represent, received a request for a specified internal affairs report. 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.

Initially, you note the submitted information was the subject of a previous request for a ruling, as a result of which this office issued Open Records Letter No. 2020-10565 (2020). In that ruling, we determined, in relevant part, the sheriff's office must withhold certain information under section 552.101 of the Government Code in conjunction with common-law privacy. However, we note the present requestor has a right of access to information the previous requestor did not. Thus, we find the law, facts, and circumstances have changed since the issuance of the previous ruling, and the sheriff's office may not rely on Open Records Letter No. 2020-10565 as a previous determination. We will address your remaining argument against disclosure of 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 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). However, as noted above, the requestor has a right of access to his own information. *See* Gov't Code § 552.023(a) (person or person's authorized representative has special right of access to records that contain information relating to the person that are protected from public disclosure by laws intended to protect that person's privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Thus, we find the sheriff's office has failed to demonstrate any of the submitted information is highly intimate or embarrassing and not of legitimate public interest. Accordingly, the sheriff's office may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with common-law privacy. The sheriff's office must release the submitted 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,

Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/be

Ref: ID# 839842

Enc. Submitted documents

c: Requestor
(w/o enclosures)