



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 31, 2022

Ms. Jacqueline Villarreal
Assistant District Attorney
Hidalgo County District Attorney's Office
100 East Cano Street
Edinburg, Texas 78539

OR2022-26512

Dear Ms. Villarreal:

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# 969719 (ORR# 2022-0115).

The Hidalgo County Sheriff's Office (the "sheriff's office") received a request for specified probably cause affidavits. The sheriff's office claims the submitted information is excepted from disclosure under sections 552.101 and 552.1315 of the Government Code. We have considered the claimed exceptions 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 and embarrassing by the Texas Supreme Court are delineated in the *Industrial Foundation* decision. *Id.* at 683. However, this office has also found the public has a legitimate public interest in the details of a crime. *See* Open Records Decision No. 400 at 4 (1983). *See generally* *Lowe v. Hearst Communications, Inc.*, 487 F.3d 246, 250 (5th Cir. 2007) (noting "legitimate public interest in facts tending to support an allegation of criminal activity" (citing *Cinel v. Connick*, 15 F.3d 1338, 1345-46 (1994))). Upon review, we find some of the submitted information, which we have marked, satisfies the standard articulated by the Texas Supreme Court in

the *Industrial Foundation* decision.¹ Accordingly, 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. However, the remaining information is not confidential under common-law privacy, and the sheriff's office may not withhold it under section 552.101 on that ground.

Section 552.1315(a)(2) of the Government Code reads as follows:

(a) Information is confidential and excepted from the [Act] if the information identifies an individual as:

...

(2) a victim of any criminal offense, if the victim was younger than 18 years of age when any element of the offense was committed.

Id. § 552.1315(a)(2). Upon review, we find the sheriff's office has not established section 552.1315 is applicable to the remaining information. Therefore, the sheriff's office may not withhold the remaining information on that ground.

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.² *See id.* § 552.130. The sheriff's office must withhold the submitted license plate number and issuing state under section 552.130 of the Government Code.

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. The sheriff's office must withhold the submitted license plate number and issuing state 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

¹ As our ruling is dispositive, we do not address the other argument of the sheriff's office to withhold this information.

² The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987).

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 L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/mo

Ref: ID# 969719

Enc. Submitted documents

c: Requestor
(w/o enclosures)