



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 1, 2015

Ms. Crystal Koonce
Open Records
Williamson County Sheriff's Office
508 South Rock Street
Georgetown, Texas 78626

OR2015-06198

Dear Ms. Koonce:

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# 558185.

The Williamson County Sheriff's Office (the "sheriff's office") received a request for any and all video recordings, witness statements, and photographs pertaining to a specified traffic accident. You claim portions of the submitted information are excepted from disclosure under sections 552.101, 552.1175, 552.130, and 552.136 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130(a). You have marked motor vehicle record information contained within the submitted documents. Further, you state, and we agree, some of the submitted video recordings contain motor vehicle record information subject to section 552.130. You also inform us the sheriff's office lacks the technological

¹Although you raise section 552.117 of the Government Code for the information of the peace officer at issue, we note section 552.1175 is the proper exception to raise for information held in a non-employment context. Accordingly, we understand you to raise section 552.1175 based on the substance of your argument and the context in which the sheriff's office holds the submitted information.

capability to redact the motor vehicle record information from these video recordings. Therefore, based on this representation and our review, we conclude the sheriff's office must withhold the information you have marked and video recordings you have indicated in their entireties under section 552.130 of the Government Code.² See ORD 364.

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). Upon review, we find you have failed to demonstrate the submitted information is highly intimate or embarrassing and of no legitimate public interest. Thus, the sheriff's office may not withhold any portion of the submitted information under section 552.101 of the Government Code in conjunction with common-law privacy.

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. See 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). You state, and we agree, video recording number 192690 contains information relating to a peace officer as defined by article 2.12, Code of Criminal Procedure. As noted above, you also state the sheriff's office lacks the technological capability to redact the officer's information from this video recording. However, you do not inform us the officer at issue has elected to restrict access to his information. Thus, we must rule conditionally. If the officer at issue elects to restrict access to his information at issue, the sheriff's office must withhold video recording number 192690 under section 552.1175 of the Government Code. See Open Records Decision No. 364 (1983). If the officer does not elect to restrict access to such information, the sheriff's office may not withhold any portion of that video recording; instead, in that instance, the sheriff's office must release video recording number 192690.

In summary, the sheriff's office must withhold the information you have marked and video recordings you have indicated in their entireties under section 552.130 of the Government

²As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

Code. If the officer at issue elects to restrict access to his information at issue, the sheriff's office must withhold video recording number 192690 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 http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Lee Seidlits
Assistant Attorney General
Open Records Division

CLS/som

Ref: ID# 558185

Enc. Submitted documents

c: Requestor
(w/o enclosures)