



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 2, 2015

Ms. Shannon C. Francis
Assistant County Attorney
Williamson County
405 Martin Luther King Street, Box 7
Georgetown, Texas 78626

OR2015-18388

Dear Ms. Francis:

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# 577948.

The Williamson County Attorney's Office (the "county attorney's office") received a request for the offense report, arrest records, charging documentation, affidavits, complaints, pleas, dispositions, evidence, photographs, videos, discovery, sentence documentation, probation documentation, community service documentation, and all contact information for the defendant from a specified criminal proceeding. You state the county attorney's office will release some of the information but claim the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

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

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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 the submitted photographs, as well as the audio in the submitted video recordings we have indicated, satisfy the standard articulated by the Texas Supreme Court in *Industrial Foundation*. We note the audio portions of the recordings at issue are intertwined with the video portions of the recordings. You indicate the county attorney's office does not have the technological capability to redact such information contained in the video recordings at issue. Therefore, we conclude the county attorney's office must withhold the video recordings we have indicated in their entirety under section 552.101 of the Government Code in conjunction with common-law privacy. *See* Open Records Decision No. 364 (1983). Accordingly, the county attorney's office must withhold the submitted photographs, and submitted video recordings we have indicated, under section 552.101 of the Government Code in conjunction with common-law privacy.²

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. *See* Gov't Code § 552.130(a). The remaining submitted video recording contains motor vehicle record information that is subject to section 552.130. You state the county attorney's office lacks the technical capability to redact the information subject to section 552.130 from this video recording. Based on this representation, we agree the county attorney's office must withhold this video recording under section 552.130 of the Government Code.

In summary, the county attorney's office must withhold the submitted photographs, as well as submitted video recordings we have indicated, under section 552.101 of the Government Code in conjunction with common-law privacy. The county attorney's office must withhold the remaining video recording under section 552.130 of the Government Code.

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.

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

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,

A handwritten signature in black ink that reads "Ramsey Abarca". The signature is written in a cursive style with a large, looped initial "R".

Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/dls

Ref: ID# 577948

Enc. Submitted documents

c: Requestor
(w/o enclosures)