



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 11, 2016

Mr. Buster Nixon  
Sheriff  
Mason County Sheriff's Office  
P.O. Box 391  
Mason, Texas 76856

OR2016-18186

Dear Mr. Nixon:

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# 622808.

The Mason County Sheriff's Office (the "sheriff's office") received a request for (1) nine types of information related to an accident involving the requestor's client, including any video recordings, and "cows in the road" on a specified date, and (2) four types of information regarding other "cows in the road" complaints or incidents within a specified time period and citations issued to a named individual within a specified time period. You indicate the sheriff's office has no information responsive to the request for video recordings due to the sheriff's office's record retention policy.<sup>1</sup> You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note you have only submitted information related to records of every "cow in the road" complaint at a specified location during a specified time period and the specified

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<sup>1</sup>The Act does not require a governmental body that receives a request for information to release information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

accident involving the requestor's client. To the extent any information responsive to the remaining portions of the request existed on the date the sheriff's office received the request, we assume the sheriff's office has released it. If the sheriff's office has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

Section 552.108(b)(2) of the Government Code excepts from disclosure the internal records and notations of law enforcement agencies and prosecutors if "the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication[.]" *See* Gov't Code § 552.108(b)(2). A governmental body claiming section 552.108(b)(2) must demonstrate the requested information relates to a concluded criminal investigation did not result in a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A). You state the submitted information relates to closed criminal investigations that did not result in convictions or deferred adjudications. Based on your representation and our review, we agree section 552.108(b)(2) is applicable to the submitted information.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). We note basic information does not include motor vehicle record information encompassed by section 552.130 of the Government Code. *See* ORD 127 at 3-4. Thus, with the exception of the basic information, the sheriff's office may withhold the submitted information under section 552.108(b)(2) of the Government Code.

You assert the basic information is excepted from public disclosure under section 552.101 of the Government Code, which 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 *Industrial Foundation*. *Id.* at 683. We note an individual's name, address, and telephone number are generally not private information under common-law privacy. *See* Open Records Decision No. 554 at 3 (1990) (disclosure of person's name, address, or telephone number not an invasion of privacy). Therefore, the sheriff's office may not withhold any of the basic information under section 552.101 of the

Government Code in conjunction with common-law privacy. Accordingly, the basic information must be released.

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](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,



Ian Lancaster  
Assistant Attorney General  
Open Records Division

IML/akg

Ref: ID# 622808

Enc. Submitted documents

c: Requestor  
(w/o enclosures)