



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 6, 2013

Ms. Delietrice Henry
Open Records Assistant
City of Plano Police Department
P.O. Box 860358
Plano, Texas 75086-0358

OR2013-21224

Dear Ms. Henry:

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# 508178 (Plano ORR# DUDJ091713).

The Plano Police Department (the "department") received a request for twelve categories of information pertaining to a specified incident, including photographs and videos. You state you have released some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.130 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

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. Upon review, we find one of the submitted video recordings, which we have noted, contains motor vehicle record information. You state the department lacks the technological capability to redact the confidential information in the video recording. Thus, the department must withhold the entire video recording, which we have noted, under section 552.130 of the Government Code. *See* Open Records Decision No. 364 (1983). We find the remaining video recording does not contain information subject to section 552.130. Accordingly, the department may

not withhold the remaining video recording under section 552.130 of the Government Code. However, we note portions of the remaining video recording are confidential under section 552.101 of the Government Code.¹ Therefore, we will address the applicability of section 552.101 to the remaining video recording.

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 portions of the remaining video recording satisfy the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, this information is confidential under section 552.101 of the Government Code in conjunction with common-law privacy. As previously noted, you state the department lacks the technological capability to redact the confidential information in the video recording. Thus, the department must withhold the remaining video recording under section 552.101 of the Government Code in conjunction with common-law privacy. *See* ORD 364.

In summary, the department must withhold the video recording, which we have noted, under section 552.130 of the Government Code and the remaining video recording under section 552.101 of the Government Code in conjunction with common-law privacy

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

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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 "Paige Thompson". The signature is written in a cursive style with a large initial "P" and a long, sweeping underline.

Paige Thompson
Assistant Attorney General
Open Records Division

PT/dls

Ref: ID# 508178

Enc. Submitted documents

c: Requestor
(w/o enclosures)