



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 23, 2011

Mr. David K. Walker  
County Attorney  
Montgomery County  
207 West Phillips, Suite 100  
Conroe, Texas 77301

OR2011-12148

Dear Mr. Walker:

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# 427732 (ORR# 2011-2702).

The Montgomery County Sheriff's Department (the "sheriff") received a request for a specified 9-1-1 transcript. You claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim 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. You claim the submitted information is excepted from disclosure under section 552.101 in conjunction with common-law privacy, which protects information that (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. See *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The types of information considered to be intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* include information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in

certain instances where it is demonstrated the requestor knows the identity of the individual involved as well as the nature of certain incidents, the entire report must be withheld to protect the individual's privacy.

In this instance, the requestor knows the identity of the individual involved as well as the nature of the incidents to which the information pertains. Thus, withholding only the individual's identity or certain details of the incidents from this requestor would not preserve the individual's common-law right to privacy. Therefore, to protect the privacy of the individual to whom the information pertains, we conclude the submitted information is confidential in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy. We note, however, that the requestor is identified in the submitted information and request for information as the spouse of the individual whose privacy interests are implicated. As such, the requestor may be the individual's authorized representative. As the individual's authorized representative, the requestor would have a right of access under section 552.023 of the Government Code to information the sheriff would be required to withhold from the public to protect the individual's privacy. *See* Gov't Code § 552.023; Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself).<sup>1</sup> Therefore, if the requestor is the individual's authorized representative, then the submitted information must be released in its entirety to the requestor pursuant to section 552.023.<sup>2</sup> If the requestor is not the individual's authorized representative, then the sheriff must withhold the submitted information under section 552.101 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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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

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<sup>1</sup>Section 552.023 provides in part that "[a] person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests." Gov't Code § 552.023(a).

<sup>2</sup>In that instance, we note that the information being released contains Texas motor vehicle record information of the individual involved in the submitted transcript, which the sheriff would be required to withhold from the public under section 552.130 of the Government Code. However, that exception protects personal privacy. Thus, if the requestor is this individual's authorized representative, then she also has a right of access to his Texas driver's license information under section 552.023.

information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to be 'VB', with a long horizontal line extending to the right.

Vanessa Burgess  
Assistant Attorney General  
Open Records Division

VB/dls

Ref: ID# 427732

Enc. Submitted documents

c: Requestor  
(w/o enclosures)