



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 23, 2012

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

OR2012-05764

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# 455560.

The Montgomery County Sheriff's Office (the "sheriff's office") received a request for a report of an attempted suicide involving the requestor and a named individual. You claim the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the information you submitted.

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. This exception encompasses 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 or 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.

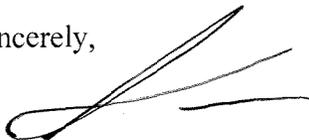
In this instance, the requestor knows both the nature of the incident to which the submitted information pertains and the identity of the individual involved in that incident. Thus, withholding only the individual's identity or certain details of that incident from this requestor would not preserve the individual's common-law right to privacy. We therefore conclude the submitted information is generally confidential under section 552.101 in conjunction with common-law privacy.

However, we note the requestor is the spouse of the individual whose privacy interests are implicated and, therefore, may be the individual's authorized representative. As such, the requestor would have a right of access under section 552.023 of the Government Code to information the sheriff's office would be required to withhold from the public to protect the individual's privacy. *See* Gov't Code § 552.023(a) (person or person's authorized representative has a special right of access to information that relates to the person and is protected from public disclosure by laws intended to protect the person's privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Therefore, if the requestor is the individual's authorized representative, then the submitted information must be released pursuant to section 552.023. If the requestor is not the individual's authorized representative, then the submitted information must be withheld in its entirety 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.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 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,



Ana Carolina Vieira  
Assistant Attorney General  
Open Records Division

ACV/ag

Ref: ID# 455560

Enc. Submitted documents

c: Requestor  
(w/o enclosures)