



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 27, 2013

Mr. Mark D. Kennedy  
Assistant District Attorney  
Hays County District Attorney's Office  
712 South Stagecoach, Suite 2057  
San Marcos, Texas 78666

OR2013-03365

Dear Mr. Kennedy:

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# 480618.

The Hays County Sheriff's Office (the "sheriff's office") received a request for all police and emergency medical services calls to a specified address and records regarding a named individual. You state some of the requested information has been released. You claim 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. This section encompasses the common-law right of privacy, which protects information if it (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. *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. The types of information considered intimate or embarrassing by the Texas Supreme Court in *Industrial Foundation* included 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.

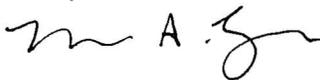
Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated the requestor knows the identity of the individual involved as well as the nature of certain incidents, the entire report

must be withheld to protect the individual's privacy. Upon review, we find the requestor knows both the identity of the individual involved and the nature of the incident in one of the reports. Therefore, withholding only the individual's identity or certain details of the incident from the requestor would not preserve the subject individual's common-law right to privacy. Accordingly, to protect the privacy of the individual to whom the information relates, the sheriff's office must withhold the report at issue, which we have marked, in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy. However, you have not demonstrated, nor does it otherwise appear, the remaining information must be withheld in its entirety on the basis of common-law privacy. Accordingly, the sheriff's office may not withhold the entirety of the remaining information under section 552.101 of the Government Code on that basis. However, we find portions of the remaining information are highly intimate or embarrassing and not of legitimate public concern. Thus, the information we have marked in the remaining information must be withheld under section 552.101 of the Government Code in conjunction with common-law privacy. As you raise no other exceptions to disclosure, the remaining 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.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,



Nicholas A. Ybarra  
Assistant Attorney General  
Open Records Division

NAY/ac

Ref: ID# 480618

Enc. Submitted documents

c: Requestor  
(w/o enclosures)