



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 22, 2013

Ms. Elizabeth Hanshaw Winn
Assistant County Attorney
County of Travis
P.O. Box 1748
Austin, Texas 78767

OR2013-04742

Dear Ms. Winn:

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# 481949.

The Travis County Sheriff's Office (the "sheriff's office") received a request for incident reports concerning the requestor's client, including a specified report. 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 representative sample of information.¹

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. Section 552.101 encompasses the doctrine of 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. *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

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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. *See 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 submitted information reveals the requestor is a representative of a person who knows the identity of the individual, as well as the nature of the incident involved in report number 12-29785. Therefore, withholding only the individual's identity or certain details of the incident from the requestor would not preserve the individual's common-law right of privacy. Accordingly, to protect the privacy of the individual to whom the information relates, the sheriff's office must withhold report number 12-29785, which we have marked, in its entirety under section 552.101 in conjunction with common-law privacy. However, you have failed to demonstrate this is a situation in which the remaining reports must be withheld in their entireties. Furthermore, we find no portion of the remaining information is highly intimate or embarrassing and not of legitimate public concern. Accordingly, the sheriff's office may not withhold any of the remaining information under section 552.101 in conjunction with common-law privacy.

We note portions of the remaining information are subject to section 552.130 of the Government Code.² Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, or a personal identification document issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130(a)(1), (3). We note the submitted information includes motor vehicle record information belonging to the requestor's client. The purpose of section 552.130 is to protect privacy interests of individuals. Thus, the requestor has a right of access to her client's motor vehicle record information under section 552.023 of the Government Code. *See id.* § 552.023(a) (person or person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person's privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning themselves). However, the sheriff's office must withhold the information we have marked under section 552.130.

In summary, the sheriff's office must withhold report number 12-29785, which we have marked, in its entirety under section 552.101 in conjunction with common-law privacy. The

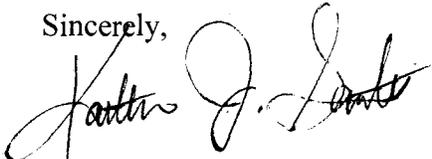
²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

sheriff's office must withhold the information we have marked under section 552.130 of the Government Code. The remaining information must be released.³

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, 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,



Kathleen J. Santos
Assistant Attorney General
Open Records Division

KJS/som

Ref: ID# 481949

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³We note the information being released contains the requestor's client's e-mail address, to which she has a right of access pursuant to section 552.137(b) of the Government Code. *See* Gov't Code § 552.137(b). Should the sheriff's office receive another request for this information from a different requestor, we note Open Records Decision No. 684 (2009) is a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including an e-mail address of a member of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision. *See* ORD 684.