



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 15, 2013

Mr. J.D. Lambright  
County Attorney  
Montgomery County Attorney's Office  
207 West Phillips, Suite 100  
Conroe, Texas 77301

OR2013-14224

Dear Mr. Lambright:

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# 496387.

The Montgomery County Sheriff's Department (the "department") received a request for information concerning a specified case. You claim the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

We note the submitted information was previously the subject of a similar request for information, in response to which this office issued Open Records Letter No. 2013-13587 (2013). In that ruling, we concluded the department must (1) withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy; (2) withhold the information we marked under section 552.130 of the Government Code if it pertains to living persons or vehicles owned by living persons; (3) withhold the information we marked under section 552.136 of the Government Code if it pertains to a living person; and (4) release the remaining information. You seek to withhold under section 552.108 of the Government Code the information we previously determined had to be released. Section 552.007 of the Government Code provides that if a governmental body releases information to any member of the public, it may not withhold such information from further disclosure unless its public release is expressly prohibited by law or the information is confidential under law. Gov't Code § 552.007; Open Records Decision No. 518 at 3 (1989); *see also* Open Records Decision No. 400 (1983)

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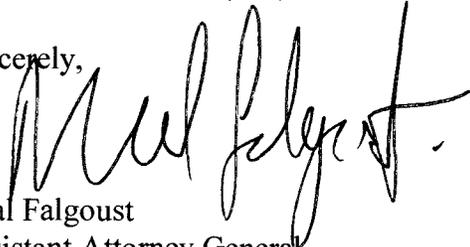
<sup>1</sup> We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any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

(governmental body may waive right to claim permissive exceptions to disclosure under the Act, but it may not disclose information made confidential by law). Section 552.108 of the Government Code is a discretionary exception to disclosure intended to protect a governmental body's interests and may be waived. *See* Open Records Decisions Nos. 665 at n.5 (2000) (discretionary exceptions in general), 177 (1977) (statutory predecessor to section 552.108 subject to waiver). As such, it neither prohibits public release of information nor makes information confidential under law. Therefore, the department may not withhold any of the submitted information under section 552.108 of the Government Code. We find there has been no change in the law, facts, or circumstances on which the previous ruling was based. Thus, with regard to the submitted information, we conclude the department must continue to rely on Open Records Letter No. 2013-13587 as a previous determination and withhold or release the information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes information is or is not excepted from disclosure).

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](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 providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Neal Falgoust  
Assistant Attorney General  
Open Records Division

NF/bhf

Ref: ID# 496387

Enc. Submitted documents

c: Requestor  
(w/o enclosures)