



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 11, 2014

Mr. Jordan Davisson
Assistant District Attorney
Hays County Criminal District Attorney's Office
712 South Stagecoach, Suite 2057
San Marcos, Texas 78666

OR2014-13910

Dear Mr. Davisson:

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# 533380.

The Hays County Sheriff's Office (the "sheriff's office") received a request for two specified reports. 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 "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 is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) 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. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *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 identity of the individual involved and the nature of the incident at issue in report number C14-18423. 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 report number C14-18423 in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy. However, the sheriff's office has not demonstrated, nor does it otherwise appear, this is a situation in which report number C14-18318 must be withheld in its entirety on the basis of common-law privacy. Accordingly, the sheriff's office may not withhold the entirety of report number C14-18318 under section 552.101 of the Government Code on that basis. Upon review, we find portions of report number C14-18318 satisfy the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Therefore, the sheriff's office must withhold this information, which we have marked, under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find you have not demonstrated how any of the remaining information at issue is highly intimate or embarrassing and not of legitimate public concern. Thus, the sheriff's office may not withhold any portion of the remaining information under section 552.101 in conjunction with common-law privacy. As you raise no further exceptions to disclosure of the remaining information, the sheriff's office must release it.

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, 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,



Kristi L. Godden
Assistant Attorney General
Open Records Division

KLG/eb

Ref: ID# 533380

Enc. Submitted documents

c: Requestor
(w/o enclosures)