



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 20, 2009

Mr. David K. Walker
Montgomery County Attorney
207 West Phillips, 1st Floor
Conroe, Texas 77301

OR2009-03653

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# 338526.

The Montgomery County Sheriff's Department (the "department") received a request for a specific incident report. You claim that 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. 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. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The type of information considered intimate and 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* 540 S.W.2d at 683. Additionally, this office has found that some kinds of medical information or information indicating disabilities or specific illnesses are excepted from required public disclosure under common-law privacy. *See* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). After review of the information at issue, we conclude that common-law privacy protects the portions of the submitted information that we have marked. The department must withhold this information under section 552.101 of the Government Code in conjunction with common-law privacy.

We also note that the submitted information contains Texas driver's license numbers and motor vehicle information belonging to persons other than the requestor.¹ This information, which we have marked, is confidential under section 552.130 of the Government Code and the department must withhold it on this basis.

Finally, we note that you have marked several social security numbers, presumably for exclusion under section 552.147(b) of the Government Code. Section 552.147(b) authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. Thus, the department may also withhold the marked social security numbers under section 552.147(b).

In summary, the department: (1) must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy, (2) must withhold the information we have marked under section 552.130 of the Government Code, (3) may withhold the information we have marked under section 552.147 of the Government Code, and (4) must release the remainder of the submitted information to the requestor.

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 at (512) 475-2497.

Sincerely,



Ryan T. Mitchell
Assistant Attorney General
Open Records Division

RTM/jb

¹The Office of the Attorney General will raise a mandatory exception, such as section 552.130, on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Ref: ID# 338526

Enc. Submitted documents

cc: Requestor
(w/o enclosures)