



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 26, 2011

Mr. David K. Walker
County Attorney
Montgomery County
207 West Phillips, Suite 100
Conroe, Texas 77301

OR2011-01338

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# 407035 (Montgomery County ORR # 2010-4620).

The Montgomery County Sheriff's Department (the "sheriff") received a request for information pertaining to a specified incident. You claim portions of the requested information are excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions 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 doctrine of common-law privacy. Common-law privacy 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). The type 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. Upon review, we find that the information you have marked is highly intimate or embarrassing and not of legitimate public concern. Therefore, the sheriff must withhold the

marked information pursuant to section 552.101 of the Government Code in conjunction with common-law privacy.

We understand you to assert the remaining information you have marked is excepted under section 552.130 of the Government Code, which provides that information relating to a motor vehicle operator's license or driver's license issued by a Texas agency is excepted from public release.¹ Gov't Code § 552.130(a)(1). Upon review, we find the information we have marked constitutes Texas motor vehicle record information the sheriff must withhold under section 552.130. The remaining information you have marked, which consists of the issuing state, does not constitute Texas motor vehicle record information and may not be withheld under section 552.130.

In summary, the sheriff must withhold the information you have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The sheriff must also withhold the information we have marked under section 552.130 of the Government Code. 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, 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,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/dls

¹We note this office issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

Ref: ID# 407035

Enc. Submitted documents

c: Requestor
(w/o enclosures)