



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

May 24, 2011

Mr. Scott A. Durfee
Assistant General Counsel
Harris County District Attorney Office
1201 Franklin, Suite 600
Houston, Texas 77002-1901

OR2011-07278

Dear Mr. Durfee:

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# 421793.

The Harris County District Attorney's Office (the "district attorney") received a request for the videos taken during two specified DWI investigations. You state the district attorney has released one of the requested recordings. You do not take a position as to whether the submitted recording is excepted from disclosure under the Act. You state the district attorney notified the counsel of the individual at issue in that recording of the district attorney's receipt of the request for information. See Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). However, we have received no correspondence from any interested third party objecting to the release of the submitted information. We have considered 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."¹ This section 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). The types of information considered intimate or embarrassing by the Texas Supreme Court in *Industrial*

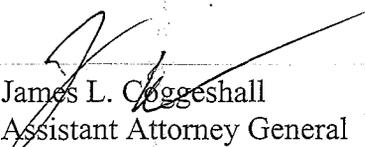
¹The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body. See Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987); see, e.g., Open Records Decision No. 470 at 2 (1987) (because release of confidential information could impair rights of third parties and because improper release constitutes a misdemeanor, attorney general will raise predecessor statute of section 552.101 on behalf of governmental bodies).

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. This office has found the following types of information are excepted from required public disclosure under common-law privacy: some kinds of medical information or information indicating disabilities or specific illnesses, *see* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps); personal financial information not relating to the financial transaction between an individual and a governmental body, *see* Open Records Decision Nos. 600 (1992), 545 (1990); and identities of victims of sexual abuse, *see* Open Records Decision Nos. 440 (1986), 393 (1983), 339 (1982). Some of the submitted information is highly intimate or embarrassing and is not of legitimate concern to the public. Therefore, the district attorney must withhold this information under section 552.101 in conjunction with common-law privacy. We have indicated the information the district attorney must protect by way of a note we have attached to the DVD at issue. The district attorney must release the remaining 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, toll free, at (888) 672-6787.

Sincerely,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/eb

Ref: ID# 421793

Enc. Submitted documents

c: Requestor
(w/o enclosures)