



February 4, 2015

Ms. Elizabeth Hanshaw Winn
Assistant County Attorney
Transactions Division
Travis County
P.O. Box 1748
Austin, Texas 78767-1748

OR2015-02228

Dear Ms. Winn:

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# 552565.

The Travis County Sheriff's Office (the "sheriff's office") received a request for information related to three specified incidents. You state the sheriff's office will release some of the information. You claim portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the requestor has excluded certain motor vehicle record information from the scope of his request. That information is not responsive to the request. This ruling does not address the public availability of information that is not responsive to a request, and the sheriff's office is not required to release non-responsive 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 (1) containing 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). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. The types of information considered intimate or embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. This office also has concluded some kinds of medical information

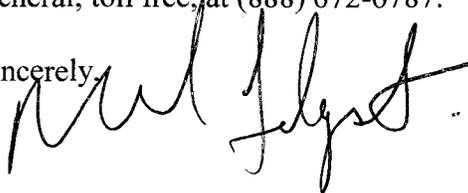
are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). Upon review, we find the information we marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. The sheriff's office must generally withhold this information under section 552.101 of the Government Code in conjunction with common-law privacy.

However, the submitted information indicates the requestor is the husband of one of the individuals whose information is at issue, and he might be acting as her authorized representative. As such, the requestor might have a right of access to his spouse's private information under section 552.023 of the Government Code. *See* Gov't Code § 552.023(b) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); *see also* Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). If the sheriff's office determines the requestor is acting as his spouse's authorized representative, he has a right of access to information pertaining to her pursuant to section 552.023(a), and that information may not be withheld from him under section 552.101 of the Government Code in conjunction with common-law privacy. However, the sheriff's office must withhold the remaining information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. If the sheriff's office determines the requestor is not acting as his spouse's authorized representative, the sheriff's office must withhold all of the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy.

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,



Neal Falgoust
Assistant Attorney General
Open Records Division

NF/bhf

Ref: ID# 552565

Enc. Submitted documents

c: Requestor
(w/o enclosures)