



February 26, 2015

Mr. Caleb Thornton
Assistant County Attorney
County of Montgomery
501 North Thompson, Suite 102
Conroe, Texas 77301

OR2015-03841

Dear Mr. Thornton:

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# 555764 (File No. 14PIA0664).

The Montgomery County Sheriff's Office (the "sheriff's office") received a request for all audio and video recordings, 9-1-1 call transcripts, and written reports related to a specified traffic stop and any traffic stops involving a specified vehicle during a certain period of time. You claim the submitted information is excepted from disclosure under section 552.130 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note you have only submitted an audio recording related to the specified traffic stop. We assume, to the extent any information responsive to the remainder of the request existed on the date the sheriff's office received the request, the sheriff's office has released it. If the sheriff's office has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.006, .301, .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is

excepted from public release. *See* Gov't Code § 552.130(a). Upon review, we find the submitted audio recording does not contain any motor vehicle record information for purposes of section 552.130. Accordingly, the sheriff's office may not withhold the submitted audio recording on that basis.

We note the submitted audio recording contains information subject to section 552.101 of the Government Code in conjunction with common-law privacy.¹ Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 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. Additionally, a compilation of an individual's criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. *Cf. United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989) (when considering prong regarding individual's privacy interest, court recognized distinction between public records found in courthouse files and local police stations and compiled summary of information and noted that individual has significant privacy interest in compilation of one's criminal history). Furthermore, we find a compilation of a private citizen's criminal history is generally not of legitimate concern to the public.

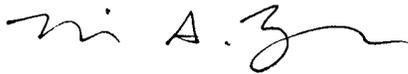
Upon review, we find the information we have indicated satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Although you claim the sheriff's office does not have the technological capability to redact information from the submitted recording, because the sheriff's office had the ability to copy the submitted audio recording in order to submit the requested information for our review, we believe the sheriff's office has the capability to produce a redacted copy of the submitted audio recording. Accordingly, the sheriff's office must withhold the information we have indicated under section 552.101 of the Government Code in conjunction with common-law privacy. As you raise no other exceptions to disclosure, the sheriff's office must release the remaining information.

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.

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

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,



Nicholas A. Ybarra
Assistant Attorney General
Open Records Division

NAY/cbz

Ref: ID# 555764

Enc. Submitted documents

c: Requestor
(w/o enclosures)