



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 30, 2015

Mr. Brendan W. Guy  
Assistant Criminal District Attorney  
County of Victoria  
205 North Bridge Street, Suite 301  
Victoria, Texas 77901-8085

OR2015-13009

Dear Mr. Guy:

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# 569298.

The Victoria County Sheriff's Office (the "sheriff's office") received two requests from different requestors for information pertaining to a specified motor vehicle accident. You claim some of the submitted information is 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. 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, this office 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 have marked satisfies the standard articulated by the Texas Supreme Court

in *Industrial Foundation*. We note, however, the second requestor is one of the individuals whose information is at issue. Accordingly, the second requestor has a special right of access under section 552.023 of the Government Code to the information pertaining to himself that would otherwise be confidential. *See* Gov't Code § 552.023 (person or person's authorized representative has special right of access to records that contain information relating to the person that are protected from public disclosure by laws intended to protect that person's privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Accordingly, the sheriff's office may not withhold the information that pertains to the second requestor from the second requestor, but the sheriff's office must withhold this information from the first requestor under section 552.101 of the Government Code in conjunction with common-law privacy. The sheriff's office must withhold the remaining information we have marked from both requestors under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find you have not demonstrated any of the remaining information you have marked is highly intimate or embarrassing and not of legitimate public concern. Thus, none of the remaining information may be withheld under section 552.101 in conjunction with common-law privacy.

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. We note section 552.130 protects personal privacy. Thus, the second requestor has a right of access to his own motor vehicle record information under section 552.023 of the Government Code. *See id.* § 552.023(a); ORD 481 at 4. Accordingly, the sheriff's office may not withhold the second requestor's motor vehicle record information, which we have marked, from the second requestor under section 552.130 of the Government Code. However, the sheriff's office must withhold the remaining motor vehicle record information we have marked from the second requestor, and all of the marked motor vehicle record information from the first requestor under section 552.130 of the Government Code. We find you have failed to demonstrate any of the remaining information is motor vehicle record information for purposes of section 552.130, and the sheriff's office may not withhold any of the remaining information on that basis.

In summary, the sheriff's office must withhold the information we have marked pertaining to the second requestor from the first requestor and the remaining information we have marked from both requestors under section 552.101 of the Government Code in conjunction with common-law privacy. With the exception of the second requestor's motor vehicle record information, which must be released to the second requestor, the sheriff's office must withhold the marked motor vehicle record information under section 552.130 of the

Government Code. The sheriff's office must release the remaining information to both requestors.<sup>1</sup>

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](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# 569298

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)

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<sup>1</sup>We note the information being released in this instance includes information that may be confidential with respect to the general public. See Gov't Code § 552.023(a); ORD 481 at 4. Therefore, if the sheriff's office receives another request for this information from a different requestor, the sheriff's office must again seek a ruling from this office.