



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 27, 2015

Ms. Shannon C. Francis  
Assistant County Attorney  
Williamson County  
405 Martin Luther King Street, Box 7  
Georgetown, Texas 78626

OR2015-15197

Dear Ms. Francis:

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# 575856.

Williamson County (the "county") received a request for all 9-1-1 calls and reports pertaining to the requestor's address during a specified time period. You claim portions of the submitted information are excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.152 of the Government Code.<sup>1</sup> 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

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<sup>1</sup>Although you do not raise section 552.130 of the Government Code in your brief, we understand you to raise this exception based on your markings.

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 some of the submitted information, which we have marked, satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. In this instance, however, the requestor is the spouse of the individual whose privacy interests are at issue. Thus, the requestor may be the authorized representative of that individual, and may have a right of access to information pertaining to her spouse that would otherwise be confidential under common-law privacy. *See* Gov't Code § 552.023(a) ("person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and that is 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, if the requestor is acting as the authorized representative of her spouse, then the county may not withhold any portion of the marked information from this requestor under section 552.101 on the basis of common-law privacy. If the requestor is not acting as the authorized representative of her spouse, then the county must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find none of the remaining information is highly intimate or embarrassing and of no legitimate public interest. Therefore, the county may not withhold any of the remaining information under section 552.101 of the Government Code on this basis.

Section 552.108(a) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must reasonably explain how and why the release of the information at issue would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706, 710 (Tex. 1977). You state the information you have marked relates to a pending criminal investigation and prosecution. Based on this representation, we conclude the release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177, 186-87 (Tex. Civ. App.—Houston [14th Dist.] 1975) (delineating law enforcement interests present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Therefore, section 552.108(a)(1) is applicable to the information you have marked.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). In Open Records Decision No. 649 (1996), this office concluded information contained in a computer-assisted-dispatch ("CAD") report is substantially the same as basic information. See ORD 649 at 3; see also Open Records Decision No. 394 at 3 (1983) (there is no qualitative difference between information contained in radio cards or radio logs and front-page offense report information expressly held to be public in *Houston Chronicle*; thus, such information is generally public). However, basic information does not include motor vehicle record information encompassed by section 552.130 of the Government Code. See ORD 127 at 3-4. Thus, with the exception of basic information, which must be released, the county may withhold the information you have marked under section 552.108(a)(1) of the Government Code.<sup>2</sup>

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). We note section 552.130 protects personal privacy. Accordingly, the requestor has a right of access to her own motor vehicle record information under section 552.023 of the Government Code and it may not be withheld from her under section 552.130. See *id.* § 552.023(a); ORD 481 at 4. Therefore, to the extent the motor vehicle record information you have marked belongs to the requestor, the county may not withhold it under section 552.130 of the Government Code and must release it. Additionally, some of the motor vehicle record information belongs to the requestor's spouse. Because section 552.130 protects personal privacy, if the requestor is acting as the authorized representative of her spouse, then she has a right of access to her spouse's motor vehicle record information pursuant to section 552.023. See *id.* § 552.023(a); ORD 481 at 4. In that instance, the county may not withhold the marked information under section 552.130. See *id.* If the requestor is not acting as her spouse's authorized representative, then the county must withhold the information you have marked, and the additional information we have marked, under section 552.130 of the Government Code.

You seek to withhold the identifying information of an undercover officer from the remaining information under section 552.152 of the Government Code. Section 552.152 provides,

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from [required public disclosure] if, under the specific circumstances pertaining to the employee or officer, disclosure of

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<sup>2</sup>As our ruling is dispositive, we do not address your other argument to withhold this information.

the information would subject the employee or officer to a substantial threat of physical harm.

Gov't Code § 552.152. You represent the release of the undercover officer's identity would subject the officer to a substantial threat of physical harm. Therefore, we find section 552.152 is applicable to the identity of the undercover officer within the information at issue. Accordingly, the county must withhold the identifying information of the undercover officer, which you have marked, under section 552.152 of the Government Code.

In summary, if the requestor is acting as the authorized representative of her spouse, then the county may not withhold any portion of the marked information from this requestor under section 552.101 on the basis of common-law privacy. If the requestor is not acting as the authorized representative of her spouse, then the county must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. To the extent the motor vehicle record information you have marked belongs to the requestor, the county must release it. If the requestor is acting as the authorized representative of her spouse, then the county may not withhold the marked information pertaining to her spouse under section 552.130. If the requestor is not acting as her spouse's authorized representative, then the county must withhold the information pertaining to her spouse you have marked, and the additional information we have marked, under section 552.130 of the Government Code. The county must withhold the identifying information of the undercover officer, which you have marked, under section 552.152 of the Government Code. The remaining information must be released.<sup>3</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.

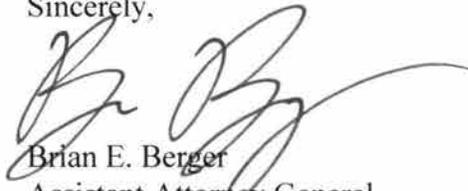
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

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<sup>3</sup>Pursuant to section 552.023 of the Government Code, the requestor may have a special right of access to her and her spouse's motor vehicle record information. *See* Gov't Code § 552.023(a); ORD 481 at 4. In that case, if the county receives a request for this information from a different requestor, it is authorized to redact this information under section 552.130(c) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). We note the requestor in this instance may also have a special right of access to her spouse's private information. *Id.* § 552.023. In that case, because such information may be confidential with respect to the general public, if the county receives another request for this information from an individual other than this requestor, it should again seek our decision.

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'B. Berger', with a long, sweeping horizontal line extending to the right.

Brian E. Berger  
Assistant Attorney General  
Open Records Division

BB/akg

Ref: ID# 575856

Enc. Submitted documents

c: Requestor  
(w/o enclosures)