



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 12, 2016

Ms. Nneka Kanu
Assistant City Attorney
City of Houston
P. O. Box 368
Houston, Texas 77001-0368

OR2016-27443

Dear Ms. Kanu:

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# 637230 (GC No. 23768).

The Houston Emergency Center (the "center") received a request for the 9-1-1 call and records for a specified incident. 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.

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 conclude the information we have marked in the submitted documents, and the information we have indicated in the submitted audio recording, meet the standard articulated by the Texas Supreme Court in *Industrial Foundation*. We note the requestor may be a parent of the

individual whose privacy is implicated. In that case, the requestor has a special right of access under section 552.023 of the Government Code to information related to his minor child that would otherwise be protected under common-law privacy. *See* Gov't Code § 552.023(b) (governmental body may not deny access to person to whom information relates or person's agent on grounds that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated, when individual requests information concerning herself). Therefore, to the extent the requestor is a parent of the individual at issue, the center may not withhold the marked and indicated information under section 552.101 of the Government Code in conjunction with common-law privacy. If the requestor is not a parent of the individual at issue, then the center must withhold the marked and indicated information under section 552.101. However, we find no portion of the remaining information is highly intimate or embarrassing and of no legitimate public concern, and the center may not withhold any of the remaining information under section 552.101 of the Government Code on the basis of 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,



Emily Kunst
Assistant Attorney General
Open Records Division

EK/eb

Ref: ID# 637230

Enc. Submitted documents

c: Requestor
(w/o enclosures)