



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 19, 2017

Ms. Shea Smith
Assistant City Attorney
City of Sugar Land
P.O. Box 110
Sugar Land, Texas 77487-0110

OR2017-08304

Dear Ms. Smith:

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# 660527 (ORR # W001727).

The City of Sugar Land (the "city") received a request for three specified reports. You state the city has released one of the requested reports. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts "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 demonstrated. *See id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Upon review, we find report number 17-0574 contains information that is considered highly intimate or embarrassing and is not of legitimate concern to the public. Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, the entire report must be withheld to protect the individual's

privacy. In this instance, withholding only the individual's identity or certain details of report number 17-0574 from this requestor would not preserve the individual's common-law right of privacy. Therefore, we conclude the city must withhold report number 17-0574 in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy.¹

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state report number 16-4497 relates to a concluded case that did not result in a conviction or deferred adjudication. Based on your representations and our review, we conclude section 552.108(a)(2) is applicable to report number 16-4497.

Section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See* Open Records Decision No. 127 (1976) (summarizing types of information made public by *Houston Chronicle*). Thus, with the exception of basic information, which must be released, the department may withhold report number 16-4497 pursuant to section 552.108(a)(2) of the Government Code.

In summary, the city must withhold report number 17-0574 in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy. With the exception of basic information, which must be released, the department may withhold report number 16-4497 pursuant to section 552.108(a)(2) of the Government Code.

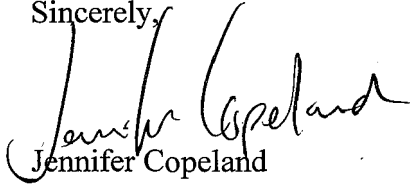
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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

¹As our ruling is dispositive, we need not address your remaining argument against disclosure of the submitted information.

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 cursive script that reads "Jennifer Copeland". The signature is written in black ink and is positioned above the printed name.

Jennifer Copeland
Assistant Attorney General
Open Records Division

JC/sb

Ref: ID# 660527

Enc. Submitted documents

c: Requestor
(w/o enclosures)