



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 26, 2017

Ms. Paige Mebane
Assistant city Attorney
City of Fort Wroth
200 Texas Street, Third Floor
Fort Worth, Texas 76103-6311

OR2017-08798

Dear Ms. Mebane:

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# 654815 (PIR# W058968).

The City of Fort Worth (the "city") received a request for information pertaining to a specified vehicle collision. We understand the city is withholding some of the submitted information in accordance with Open Records Letter Nos. 2011-15641 (2011) and 2016-00620 (2016).¹ You state the city released some information. You claim the submitted information is 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 of the Government Code also encompasses section 773.091 of the Health and Safety Code, which provides in relevant part:

¹Open Records Letter No. 2011-15641 authorizes the city to withhold under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code an originating telephone number of a 9-1-1 caller furnished to the city by a service supplier established in accordance with chapter 772 of the Health and Safety Code without the necessity of requesting an attorney general decision. Open Records Letter No. 2016-00620 authorizes the city to withhold public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a ruling from this office.

(b) Records of the identity, evaluation, or treatment of a patient by emergency medical services personnel or by a physician providing medical supervision that are created by the emergency medical services personnel or physician or maintained by an emergency medical services provider are confidential and privileged and may not be disclosed except as provided by this chapter.

...

(g) The privilege of confidentiality under this section does not extend to information regarding the presence, nature of injury or illness, age, sex, occupation, and city of residence of a patient who is receiving emergency medical services.

Health & Safety Code § 773.091(b), (g). Except for the information specified in section 773.091(g), emergency medical services (“EMS”) records are deemed confidential under section 773.091.

Although you also raise section 552.101 of the Government Code in conjunction with section 773.091 for an incident detail report, we note this report is not an EMS record. Further, you do not explain this information was taken from an EMS record. Therefore, we find the incident detail report does not fall within the scope of section 773.091, and the city may not withhold this information under section 552.101 in conjunction with section 773.091 of the Health and Safety Code. Upon review, we find the remaining information you marked constitutes records of the identity, evaluation, or treatment of a patient by EMS personnel. Thus, except for the information subject to section 773.091(g), the city must withhold the remaining information you marked under section 552.101 of the Government Code in conjunction with section 773.091(b) of the Health and Safety Code.

Section 552.101 of the Government Code also 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). However, the public has a legitimate interest in knowing the details of a crime. *See Lowe v. Hearst Commc’ns, Inc.*, 487 F.3d 246, 250 (5th Cir. 2007) (noting a “legitimate public interest in facts tending to support an allegation of criminal activity” (citing *Cinel v. Connick*, 15 F.3d 1338, 1345-46 (5th Cir. 1994))). Upon review, we find you have not demonstrated any of the remaining information at issue is highly intimate or embarrassing and not of legitimate public concern. Thus, the city may not withhold any

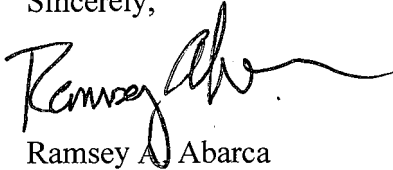
portion of the remaining information under section 552.101 in conjunction with common-law privacy.

In summary, except for the information in the incident detail report and the information subject to section 773.091(g), the city must withhold the information you marked under section 552.101 of the Government Code in conjunction with section 773.091(b) of the Health and Safety Code. The city 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.

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,



Ramsey A Abarca
Assistant Attorney General
Open Records Division

RAA/bw

Ref: ID# 654815

Enc. Submitted documents

c: Requestor
(w/o enclosures)