



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 2, 2018

Mr. Robert Scamardo  
General Counsel  
Fort Bend Independent School District  
16431 Lexington Boulevard  
Sugar Land, Texas 77479

OR2018-02404

Dear Mr. Scamardo:

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# 696051 (ORR 2017-18-266).

The Fort Bend Independent School District (the "district") received a request for information pertaining to a specified incident and any information related to violent or criminal behavior by any of three named students. You state you have released information pertaining to the specified incident. 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 "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. The doctrine of common-law privacy protects a compilation of an individual's criminal history, which is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. *Cf. United States Dep't of Justice v. Reporters Comm. for Freedom of*

*the Press*, 489 U.S. 749, 764 (1989) (when considering prong regarding individual's privacy interest, court recognized distinction between public records found in courthouse files and local police stations and compiled summary of information and noted that individual has significant privacy interest in compilation of one's criminal history). Furthermore, we find a compilation of a private citizen's criminal history is generally not of legitimate concern to the public.

The remaining portion of the present request requires the district to compile unspecified law enforcement records concerning the students named in the request, thus implicating the named students' rights to privacy. Therefore, to the extent the district maintains law enforcement records depicting the named students as suspects, arrestees, or criminal defendants, the district must withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy. We note you have submitted reports that do not depict the named students as suspects, arrestees, or criminal defendants. Thus, this information is not part of a criminal history compilation protected by common-law privacy and may not be withheld under section 552.101 on that basis. Furthermore, we note these reports are not responsive to the instant request. This ruling does not address the public availability of any information that is not responsive to the request and the district is not required to release these reports in response to this request. As we are able to make this determination, we need not address your remaining arguments against disclosure of these reports.

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,



Sean Nottingham  
Assistant Attorney General  
Open Records Division

SN/gw

Ref: ID# 696051

Enc. Submitted documents

c: Requestor  
(w/o enclosures)