



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 15, 2019

Ms. Susan V. Case
Administrative Assistant
Gainesville Police Department
201 Santa Fe Street
Gainesville, Texas 76240-2155

OR2019-07281

Dear Ms. Case:

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# 761498.

The Gainesville Police Department (the "department") received a request for all records involving a named individual during a specified time period. You state the department has 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 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 or 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 agree report number 1400022438 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 the report at issue from this requestor would not preserve the subject individual's common-law right of privacy. Accordingly, to protect the privacy of the individual to whom the information relates, the department must withhold report number 1400022438 in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy. Additionally, we find some of the remaining information satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Thus, the department must also withhold the information we marked in the remaining report under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find you have not demonstrated any of the remaining information is highly intimate or embarrassing and of no legitimate public concern, and the department may not withhold any of the remaining information under section 552.101 of the Government Code on the basis of common-law privacy. Therefore, the department 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,



Kieran Hillis
Assistant Attorney General
Open Records Division

KH/jxd

Ref: ID# 761498

Enc. Submitted documents

c: Requestor
(w/o enclosures)