



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

November 7, 2019

Ms. LeAnn M. Quinn  
City Secretary  
City of Cedar Park  
450 Cypress Creek Road  
Cedar Park, Texas 78613

OR2019-31468

Dear Ms. Quinn:

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# 795702 (ORR# CS 19-341).

The City of Cedar Park (the "city") received a request for information pertaining to a specified incident. The city claims some of the submitted information is excepted from disclosure under sections 552.101 and 552.117 of the Government Code. We have considered the claimed exceptions 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." This section encompasses section 773.091 of the Health and Safety Code, which provides, in relevant part, the following:

- (a) A communication between certified emergency medical services personnel or a physician providing medical supervision and a patient that is made in the course of providing emergency medical services to the patient is confidential and privileged and may not be disclosed except as provided by this chapter.
- (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.

Health & Safety Code § 773.091(a)-(b). The submitted information does not contain a communication between certified emergency medical services personnel or a physician providing medical supervision and a patient that is made in the course of providing emergency medical services to the patient. *See id.* § 773.091(a). It also does not contain a record of the identity, evaluation, or treatment of a patient by emergency medical services personnel or by a physician providing medical supervision that was created by the emergency medical services personnel or physician or maintained by an emergency medical services provider. *See id.* § 773.091(b). Accordingly, none of the information is confidential under section 773.091, and the city may not withhold it under section 552.101 of the Government Code on that ground.

Section 552.117(a)(16) of the Government Code excepts from public disclosure the home address and telephone number, emergency contact information, social security number, and family member information of a firefighter, volunteer firefighter, or emergency medical services personnel as defined by section 773.003 of the Health and Safety Code, regardless of whether the firefighter, volunteer firefighter, or emergency medical services personnel comply with section 552.024 or 552.1175 of the Government Code. Act of May 27, 2019, 86th Leg., R.S., H.B. 2446, § 4 (to be codified at Gov't Code § 552.117(a)(16)). We note section 552.117 applies only to information that a governmental body holds in an employment context. Upon review, we find the city does not maintain the submitted information in an employment capacity. Accordingly, the city may not withhold any of the submitted information under section 552.117 of the Government Code.


Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). Under the common-law right of privacy, an individual has a right to be free from the publicizing of private affairs in which the public has no legitimate concern. *Id.* at 682. The Third Court of Appeals has concluded public citizens' dates of birth are protected by common-law privacy pursuant to section 552.101. *See Paxton v. City of Dallas*, No. 03-13-00546-CV, 2015 WL 3394061, at \*3 (Tex. App.—Austin May 22, 2015, pet. denied) (mem. op.). Thus, the city must withhold the submitted date of birth, which we have marked, under section 552.101 of the Government Code in conjunction with common-law privacy. 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

  
James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/rm

Ref: ID# 795702

Enc. Submitted documents

c: Requestor  
(w/o enclosures)