



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 5, 2019

Ms. Katie Leininger
Assistant City Attorney
City of Pearland
3519 Liberty Drive
Pearland, Texas 77581

OR2019-34309

Dear Ms. Leninger:

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# 803200.

The City of Pearland (the "city") received a request for information pertaining to a specified 9-1-1 call. We note the city has redacted certain motor vehicle record information under section 552.130(c) of the Government Code and dates of birth pursuant to Open Records Letter No. 2019-08084 (2019).¹ You claim some of 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 and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at

¹ Section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 552.130(a) without the necessity of seeking a decision from the attorney general. See Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). See *id.* § 552.130(d), (e). Open Records Letter No. 2019-08084 is a previous determination issued to the city to withhold the dates of birth of public citizens under section 552.101 of the Government Code in conjunction with common-law privacy without seeking a ruling from this office. See Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301 (a) of the Government Code).

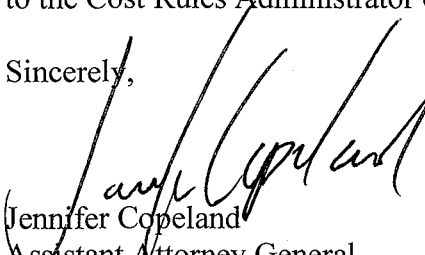
683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987).

You seek to withhold the portions of the submitted information, which you have marked, on the basis of common-law privacy. However, in this instance, the requestor is the individual whose privacy interests are at issue. Thus, the requestor has a right of access to information pertaining to herself that would otherwise be confidential under common-law privacy. *See* Gov't Code § 552.023(b) ("person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests"). Accordingly, the city may not withhold the information you marked under section 552.101 in conjunction with common-law privacy. The city must release the submitted information to this requestor.²

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,



Jennifer Copeland
Assistant Attorney General
Open Records Division

JC/gw

Ref: ID# 803200

Enc. Submitted documents

c: Requestor
(w/o enclosures)

² We note the information being released in this instance includes information that is confidential with respect to the general public. *See* Gov't Code § 552.023(a); ORD 481 at 4. Therefore, if the city receives another request for this information from a different requestor, the city must again seek a ruling from this office.