



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 3, 2020

Mr. Matthew J. Longoria
Counsel for the City of Copperas Cove
Denton, Navarro, Rocha & Bernal P.C.
2517 North Main Avenue
San Antonio, Texas 78212

OR2020-03160

Dear Mr. Longoria:

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# 809470 (ORR# W005728).

The City of Copperas Cove (the "city"), which you represent, received a request for domestic dispute reports pertaining to the requestor. The city states it has released some of the requested information, but claims some of the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 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." 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 the *Industrial Foundation* decision. *Id.* at 683. Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated the requestor knows the identity of the individual involved, as well as the nature of certain incidents, the entirety of the information must be withheld to protect the individual's privacy. The requestor knows the identity of the individual involved and the nature of the

incident in incident report number 19-4138. Therefore, withholding only the individual's identity or certain details of the incident from the 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 city must withhold incident report number 19-4138 in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy.¹

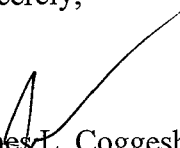
Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the information at issue relates to a criminal investigation that has concluded in a final result other than conviction or deferred adjudication. *See id.* §§ 552.108(a)(2), .301(e)(1)(A). The city states the remaining information it has marked under section 552.108(a)(2) pertains to a case that concluded in a result other than conviction or deferred adjudication. Thus, the city may withhold the remaining information it has marked under section 552.108(a)(2) of the Government Code.²

In summary, the city must withhold incident report number 19-4138 in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy. The city may withhold the remaining information it has marked under section 552.108(a)(2) of the Government 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 <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/be

¹ As our ruling is dispositive, we do not address the other arguments of the city to withhold this information.

² As our ruling is dispositive, we do not address the other arguments of the city to withhold this information.

Ref: ID# 809470

Enc. Submitted documents

c: Requestor
(w/o enclosures)