



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 10, 2020

Ms. Heather Silver
Assistant City Attorney
City of Dallas
Criminal Law and Police Section
1400 South Lamar, 6th Floor, 6W
Dallas, Texas 75215

OR2020-22894

Dear Ms. Silver:

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# 843201 (ORR# D012262-052920).

The Dallas Police Department (the "department") received a request for reports and 9-1-1 audio recordings pertaining to a specified case. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the claimed exceptions and reviewed the submitted representative sample of information.¹

Section 552.101 of the Government Code excepts from public 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 683. Additionally, this office has concluded

¹ We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). This common-law right to privacy protects the identifying information of a complainant in certain situations based on the facts of the case. *See* Open Records Decision No. 394 (1983); *see also* Open Records Decision No. 339 (1982) (concluding common-law privacy protects identifying information of victim of serious sexual offense). 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.

Upon review, we agree the submitted information contains information that satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. In this instance, withholding only the individual's identity or certain details of the report at issue from this requestor would not preserve the common-law right of privacy of the individual at issue. Accordingly, to protect the privacy of the individual to whom the information relates, the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with common-law privacy.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,

James M. Graham
Assistant Attorney General
Open Records Division

JMG/be

Ref: ID# 843201

Enc. Submitted documents

c: Requestor
(w/o enclosures)

² As our ruling is dispositive, we need not address the remaining argument against disclosure of this information.