



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 3, 2022

Ms. Catherine Zellers  
City Attorney's Office  
City of Weatherford  
P.O. Box 255  
Weatherford, Texas 76086

OR2022-15943

Dear Ms. Zellers:

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# 952151 (Records Center No. W003299).

The Weatherford Police Department (the "department") received a request for information pertaining to a named individual. You state the department has released some information. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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 a conviction or deferred adjudication. *See id.* §§ 552.108(a)(2), .301(e)(1)(A). You state Exhibits C and D pertain to a case that concluded in a result other than conviction or deferred adjudication. Therefore, we agree section 552.108(a)(2) is applicable to this information. Accordingly, the department may withhold Exhibits C and D under section 552.108(a)(2) of the Government Code.<sup>1</sup>

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<sup>1</sup> As our ruling is dispositive, we need not address the remaining argument against disclosure of this 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.” *Id.* § 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 some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). Upon review, we find the information at issue satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the department must withhold the information you marked under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential.<sup>2</sup> *Id.* § 552.1175. Section 552.1175, applies, in part, to “current or honorably retired peace officers as defined by Article 2.12, Code of Criminal Procedure[.]” Gov’t Code § 552.1175(a)(1)); *see id.* § 552.003(1-b) (defining “honorably retired” for purposes of the Act). Accordingly, the department must withhold the information we marked under section 552.1175 of the Government Code if the individual at issue is a current or honorably retired peace officer and elects to restrict access to his marked information in accordance with section 552.1175(b) of the Government Code. Conversely, if the individual is not a current or honorably retired peace officer or does not elect to restrict access to his information in accordance with section 552.1175(b), then the department may not withhold this information under section 552.1175 of the Government Code.

In summary, the department may withhold Exhibits C and D under section 552.108(a)(2) of the Government Code. The department must withhold the information you marked under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the information we marked under section 552.1175 of the Government Code if the individual at issue is a current or honorably retired peace officer and elects to restrict access to his marked information in accordance with section 552.1175(b) of the Government Code. The department must release the remaining information.

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<sup>2</sup> The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987).

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,

D. Michelle Case  
Assistant Attorney General  
Open Records Division

DMH/jxd

Ref: ID# 952151

Enc. Submitted documents

c: Requestor  
(w/o enclosures)