



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 15, 2022

Ms. Jessika Williams
Assistant City Attorney
City of Fort Worth
200 Texas Street, Third Floor
Fort Worth, Texas 76102

OR2022-20478

Dear Ms. Williams:

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# 959228 (ORR# E002669).

The Fort Worth Police Department (the "department") received a request for records related to a specified arrest of a named individual. We understand the department will redact dates of birth of members of the public pursuant to the previous determination issued in Open Records Letter No. 2016-00620 (2016).¹ The department claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception the department claims and reviewed the submitted information.

Section 552.101 of the Government Code excepts "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. In Open Records Decision No. 393 (1983), this office concluded generally, only information that either

¹ Open Records Letter No. 2016-00620 authorizes the department to withhold public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy without requesting an attorney general decision. See Open Records Decision No. 673 at 7-8 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code).

identifies or tends to identify a victim of sexual assault or other sex-related offense may be withheld under common-law privacy; however, because the identifying information was inextricably intertwined with other releasable information, the governmental body was required to withhold the entire report. ORD 393 at 2; *see* Open Records Decision No. 339 (1982); *see also Morales v. Ellen*, 840 S.W.2d 519 (Tex. App.—El Paso 1992, writ denied) (identity of witnesses to and victims of sexual harassment was highly intimate or embarrassing information and public did not have a legitimate interest in such information); Open Records Decision No. 440 (1986) (detailed descriptions of serious sexual offenses must be withheld). Further, where the requestor knows the identity of the victim, the entire report must be withheld to protect the victim's privacy. In this instance, the department seeks to withhold the entirety of the submitted information under section 552.101 in conjunction with common-law privacy. However, the department has not demonstrated, and we are not able to determine, the requestor knows the identity of the victim. Accordingly, the department may not withhold the entirety of the submitted information under section 552.101 of the Government Code on that basis. Upon review, we find the identifying information of the victim of sexual assault, which we marked, satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Thus, the department must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find the department has not demonstrated any of the remaining information is highly intimate or embarrassing and not of legitimate public concern. Thus, the department may not withhold any of the remaining information under section 552.101 in conjunction with common-law privacy.

We note some of the remaining information is subject to section 552.130 of the Government Code.² Section 552.130 provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130. Accordingly, the department must withhold the motor vehicle record information we marked under section 552.130 of the Government Code.

In summary, the department must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the motor vehicle record information we marked under section 552.130 of the Government Code. The department 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->

² The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

[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,

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/jm

Ref: ID# 959228

Enc. Submitted documents

c: Requestor
(w/o enclosures)