



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 7, 2022

Ms. Amanda Gonzalez  
Records Supervisor  
Frisco Police Department  
7200 Stonebrook Parkway  
Frisco, Texas 75034

OR2022-27253

Dear Ms. Gonzalez:

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# 970832 (Reference Number P058900-061922).

The Frisco Police Department (the "department") received a request for information pertaining to a specified incident involving the requestor and a named individual.<sup>1</sup> You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.<sup>2</sup> 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

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<sup>1</sup> You state the department sought and received clarification of the information requested. *See* Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.2d 380, 387 (Tex. 2010) (if governmental entity, acting in good faith, requests clarification of unclear or over-broad request, ten-day period to request attorney general ruling is measured from date request is clarified).

<sup>2</sup> Although we understand you to also raise section 552.101 of the Government Code in conjunction with the constitutional privacy for the information at issue, you provide no arguments explaining how this doctrine is applicable to the information at issue. Therefore, we assume you no longer assert this doctrine. *See* Gov't Code §§ 552.301, .302.

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 highly intimate or 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).

The submitted information contains information that satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated that the requestor knows the identity of the individual involved, as well as the nature of certain incidents, the entire report must be withheld to protect the individual's privacy. In this instance, the submitted information reveals the requestor knows the identity of the individual involved as well as the nature of the information in the submitted documents. Therefore, withholding only the individual's identity or certain details of the incident from this 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 information must be withheld in its entirety under section 552.101 in conjunction with common-law privacy. However, we note the requestor's spouse is the individual whose privacy rights are implicated; thus, the requestor may have a right of access to such information if he is acting as the authorized representative of his spouse. *See* Gov't Code § 552.023(a)-(b) (governmental body may not deny access to person or person's representative to whom information relates on grounds that information is considered confidential under privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). As we are not able to make this determination, we rule in the alternative. To the extent the requestor is not acting as the authorized representative of his spouse, the department must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy. To the extent the requestor is acting as the authorized representative of his spouse, the department may not withhold the information pertaining to his spouse under section 552.101 in conjunction with common-law privacy. In that instance, as you raise no further exceptions to disclosure, the department must release the submitted information to the requestor.

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,

Kimbell Kesling  
Assistant Attorney General  
Open Records Division

KK/mo

Ref: ID# 970832

Enc. Submitted documents

c: Requestor  
(w/o enclosures)