



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 13, 2022

Ms. Shawnta A. Adams
Assistant City Attorney
City of Arlington
Mail Stop 04-0200
Post Office Box 1065
Arlington, Texas 76004-1065

OR2022-31561

Dear Ms. Adams:

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# 978279 (ORR# R137855).

The Arlington Police Department (the "department") received a request for records related to a specified address during a specified time period. 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. 2022-24911 (2022).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

¹ Open Records Letter No. 2022-24911 authorized the department to withhold dates of birth of members of the public under section 552.101 of the Government Code in conjunction with common-law privacy without the necessity of requesting an attorney general's 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).

Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Upon review, we find the department has not demonstrated any of the information at issue is highly intimate or embarrassing and not of legitimate public concern. Thus, the department may not withhold any portion of the information at issue under section 552.101 in conjunction with common-law privacy. The department must release the submitted 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,

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/mo

Ref: ID# 978279

Enc. Submitted documents

c: Requestor
(w/o enclosures)