



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 12, 2022

Mr. Chuong Q. Phung
Assistant City Attorney
City of Grand Prairie
300 West Main Street
Grand Prairie, Texas 75050

OR2022-38442

Dear Mr. Phung:

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# 989147 (Ref. No GPCA 22-0258).

The Grand Prairie Police Department (the "department") received a request for information pertaining to a specified incident. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. 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 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). The Third Court of Appeals has concluded public citizens' dates of birth are protected by common-law privacy pursuant

to section 552.101. *See Paxton v. City of Dallas*, No. 03-13-00546-CV, 2015 WL 3394061, at *3 (Tex. App.—Austin May 22, 2015, pet. denied) (mem. op.).

Upon review, we find some of the submitted information satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, 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 you have failed to demonstrate any of the remaining information is highly intimate or embarrassing and not of legitimate public interest. Thus, the department may not withhold any of the remaining information under section 552.101 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.¹ Gov't Code § 552.1175. Section 552.1175 applies, in part, to “a firefighter or volunteer firefighter or emergency medical services personnel as defined by Section 773.003, Health and Safety Code.” *Id.* § 552.1175(a)(18). Some of the remaining information pertains to an individual subject to section 552.1175(a)(18) of the Government Code. Thus, to the extent the individual whose information is at issue elects to restrict access to his information in accordance with section 552.1175(b) of the Government Code, the department must withhold the information we marked under section 552.1175(a)(18) 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. To the extent the individual whose information is at issue elects to restrict access to his information in accordance with section 552.1175(b) of the Government Code, the department must withhold the information we marked under section 552.1175(a)(18) 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-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

¹ The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481, 480 (1987), 470 (1987).

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/pt

Ref: ID# 989147

Enc. Submitted documents

c: Requestor
(w/o enclosures)