



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 12, 2022

Mr. J. Joel Tovanche  
Assistant City Attorney  
City of Fort Worth  
200 Texas Street, 3rd Floor  
Fort Worth, Texas 76102

OR2022-38443

Dear Mr. Tovanche:

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# 989361 (PIR No. R006822-091422).

The City of Fort Worth (the "city") received a request for information pertaining to a specified incident involving the requestor's client. 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 section 773.091 of the Health and Safety Code, which provides, in part, as follows:

(b) Records of the identity, evaluation, or treatment of a patient by emergency medical services [(“EMS”)] personnel or by a physician providing medical supervision that are created by the [EMS] personnel or physician or maintained by an [EMS] provider are confidential and privileged and may not be disclosed except as provided by this chapter.

...

(g) The privilege of confidentiality under this section does not extend to information regarding the presence, nature of injury or illness, age, sex, occupation, and city of residence of a patient who is [EMS].

Health & Safety Code § 773.091(b), (g). Upon review, we find the submitted information consists of records made and maintained by EMS personnel. We further find section 773.091 is applicable the information at issue. Thus, with the exception of the information subject to section 773.091(g), which must be released, the city must withhold the submitted

information under section 552.101 of the Government Code in conjunction with section 773.091(b) of the Health and Safety Code.<sup>1</sup>

Section 552.101 of the Government Code also 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. Upon review, we find you have failed to demonstrate the information subject to section 773.091(g) of the Health and Safety Code is highly intimate or embarrassing and not of legitimate public interest. Thus, the city may not withhold the information at issue under section 552.101 in conjunction with common-law privacy.

In summary, with the exception of the information subject to section 773.091(g), which must be released, the city must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 773.091(b) of the Health and Safety Code.

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/pt

Ref: ID# 989361

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>1</sup> As our ruling is dispositive, we need not address the remaining argument against disclosure of this information.