



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 6, 2014

Ms. Michele Tapia
Assistant City Attorney
City of Carrollton
1945 E. Jackson Road
Carrollton, Texas 75006

OR2014-02354

Dear Ms. Tapia:

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# 513378 (City ID# 1840).

The City of Carrollton (the "city") received a request for audio recordings of two specified 9-1-1 calls. 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. *See 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)*. Upon review, we find portions of the submitted information, which we have indicated, satisfy the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Thus, the city must generally withhold this information under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find none of the remaining information is highly intimate or embarrassing and of no legitimate public concern. Therefore, the city may not withhold the

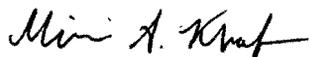
remaining information under section 552.101 of the Government Code on the basis of common-law privacy.

We note the requestor in this instance is the spouse of the individual to whom the private information pertains and may have a right of access to it. *See* Gov't Code § 552.023(a) (“person or a person’s authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person’s privacy interests”). Thus, pursuant to section 552.023(a), if the requestor is acting as the authorized representative of his spouse, then he has a right of access to the information we have indicated, and it may not be withheld under section 552.101 of the Government Code in conjunction with common-law privacy. In this instance, the city must release the submitted information in its entirety to this requestor. If the requestor is not acting as the authorized representative of his spouse, then the city must withhold the information we have indicated under section 552.101 of the Government Code in conjunction with common-law privacy and 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 http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Miriam A. Khalifa
Assistant Attorney General
Open Records Division

MAK/akg

Ref: ID# 513378

Enc. Submitted documents

c: Requestor
(w/o enclosures)