



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 4, 2015

Mr. Grant Jordan
Assistant City Attorney
Office of the City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
For Worth, Texas 76102

OR2015-18597

Dear Mr. Jordan:

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# 578243.

The City of Fort Worth (the "city") received a request for incident report numbers 15-7504 and 15-7783. You state the city has released some information to the requestor. You claim portions of the submitted information are excepted from disclosure under sections 552.101 and 552.147 of the Government Code. We have considered the exceptions you claim 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 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). We note dates of birth of

members of the public are generally not highly intimate or embarrassing. *See* Open Records Decision No. 455 at 7 (1987) (home addresses, telephone numbers, dates of birth not protected under privacy).

Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated 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 requestor knows both the identity of the involved individual and the nature of report number 15-7783. Therefore, withholding only the individual's identity or certain details of the incident from the 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 city must withhold report number 15-7783 in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy. Further, we find some of the information in the remaining report, which we have marked, satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the city must withhold the information we have marked in report number 15-7504 under section 552.101 of the Government Code in conjunction with common-law privacy. As the city has not demonstrated the remaining information it has marked is highly intimate or embarrassing and of no legitimate public interest, the city may not withhold any portion of the remaining information under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.147(a) of the Government Code excepts the social security number of a living individual from public disclosure. Gov't Code § 552.147. The city has marked an individual's social security number in report number 15-7504. Upon review, we agree the city may withhold the social security number it has marked under section 552.147 of the Government Code.

In summary, the city must withhold report number 15-7783 in its entirety, in addition to the information we have marked within report number 15-7504, under section 552.101 of the Government Code in conjunction with common-law privacy. The city may withhold the social security number it has marked in report number 15-7504 under section 552.147 of the Government Code, but 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,

A handwritten signature in cursive script, appearing to read "Michael A. Pearle".

Michael A. Pearle
Assistant Attorney General
Open Records Division

MAP/som

Ref: ID# 578243

Enc. Submitted documents

c: Requestor
(w/o enclosures)