



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 26, 2012

Mr. Fred M. Barker
Assistant County Attorney
Parker County
118 West Columbia Street
Weatherford, Texas 76086

OR2012-17163

Dear Mr. Barker:

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# 469063.

The Parker County Sheriff's Office (the "sheriff's office") received a request for a specified incident report filed by a named individual. You claim the requested information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. You also state release of the requested information could implicate the interests of the named individual. Accordingly, you notified the named individual of the request for information and of his right to submit arguments to this office as to why the submitted information should not be released. See Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released). We have considered the submitted arguments 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." *Id.* § 552.101. You assert the submitted information is confidential pursuant to the common-law physical safety exception that the Texas Supreme Court recognized in *Texas Department of Public Safety v. Cox Texas Newspapers, L.P. & Hearst Newspapers, L.L.C.*, 343 S.W.3d 112, 117 (Tex. 2011) ("freedom from physical harm is an independent interest protected under law, untethered to the right of privacy"). In the *Cox* decision, the Supreme Court recognized, for the first time, a common-law physical safety exception to required disclosure. *Cox*, 343 S.W.3d at 118. Pursuant to this common-law physical safety

exception, the court determined “information may be withheld [from public release] if disclosure would create a substantial threat of physical harm.” *Id.* In applying this new standard, the court noted “deference must be afforded” law enforcement experts regarding the probability of harm, but further cautioned “vague assertions of risk will not carry the day.” *Id.* at 119.

You explain the named individual filed the requested report with the sheriff’s office because he feared for his safety and the safety of his family. You assert disclosure of the submitted information would create a substantial threat of physical harm to the named individual. The named individual has informed this office the requestor in this instance has acted in an increasingly erratic, unstable, and threatening manner towards the individual and his family and he requested additional protections at his current job, including bullet proof glass. The named individual stated the requestor has approached the named individual and his family at public events, and that “[p]olice and security had to escort both [the named individual] and [his] family at events because of [the requestor’s] harassment and intended intimidating tactics.” Upon review, we find the release of the submitted information would create a substantial threat of physical harm to the named individual. Accordingly, the sheriff’s office must withhold the submitted information under section 552.101 of the Government Code in conjunction with the common-law physical safety exception.¹

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/som

¹As our ruling is dispositive, we need not address your remaining arguments against disclosure.

Ref: ID# 469063

Enc. Submitted documents

c: Requestor
(w/o enclosures)