



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 25, 2013

Mr. John Ohnemiller  
First Assistant City Attorney  
City of Midland  
P.O. Box 1152  
Midland, Texas 79702-1152

OR2013-18658

Dear Mr. Ohnemiller:

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# 504040 (Midland ID# 12846).

The City of Midland (the "city") received a request for all police calls to a specified address involving a named individual over the last 12 months. You state you have released some information to the requestor. 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).

Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated that 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 submitted information reveals that the requestor knows the identity of the individual involved as well as the nature of the information in one of the submitted reports, Police Incident #MP130805306. Therefore, withholding only the individual's identity or certain

details of the incident in this report from the requestor would not preserve the subject individual's common-law right of privacy. Accordingly, the city must generally withhold the report for Police Incident #MP130805306 in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy. In addition, the information we have marked in the report for Police Incident #MP121005805 is also generally confidential under common-law privacy and must be withheld under section 552.101.

However, we note the requestor is the spouse of the individual to whom the submitted information pertains and may have a right of access to this information. *See* Gov't Code § 552.023(b) ("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, if the requestor is acting as the authorized representative of his spouse, then he has a right of access to the private information pursuant to section 552.023(b), and this information may not be withheld under section 552.101 in conjunction with common-law privacy. Accordingly, if the requestor is acting as the authorized representative of his spouse, the submitted information must be released to him in its entirety. If the requestor is not acting as the authorized representative of his spouse, then the city must withhold the report for Police Incident #MP130805306 in its entirety, and the information we have marked in the report for Police Incident #MP121005805, under section 552.101 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](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,



Michael Pearle  
Assistant Attorney General  
Open Records Division

MAP/tch

Ref: ID# 504040

Enc. Submitted documents

c: Requestor  
(w/o enclosures)