



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 27, 2016

Mr. Ryan S. Sullivan
Public Information Officer
Harris County
1200 Baker Street
Houston, Texas 77002

OR2016-16900

Dear Mr. Sullivan:

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# 620440.

The Harris County Sheriff's Office (the "sheriff's office") received a request for the recording of a specified 9-1-1 telephone call. 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 highly intimate or 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 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, you seek to withhold the submitted information in its entirety under section 552.101 in conjunction with common-law privacy. However, you have not demonstrated, nor does it otherwise appear, this is a situation in which the entirety of the information at issue must be withheld on the basis of common-law privacy. Accordingly, the sheriff's office may not withhold the entirety of the information at issue under section 552.101 of the Government Code on that basis. However, 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 sheriff's office must withhold the information we have indicated under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find you have not demonstrated any of the remaining information is highly intimate or embarrassing and not of legitimate public concern. Thus, the remaining information may not be withheld under section 552.101 in conjunction with common-law privacy.

Section 552.1175 of the Government Code excepts from disclosure the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential.¹ Gov't Code § 552.1175. Section 552.1175 applies, in part, to "peace officers as defined by Article 2.12, Code of Criminal Procedure[.]" *Id.* § 552.1175(a)(1). Upon review, we find the information we have indicated pertains to an individual who may be a peace officer employed by another law enforcement agency. Thus, to the extent the information we have indicated under section 552.1175 pertains to a currently licensed peace officer who elects to restrict access to this information in accordance with section 552.1175(b), then the sheriff's office must withhold the information we have indicated under section 552.1175 of the Government Code. If the individual at issue is not a currently licensed peace officer, or if no election is made, the sheriff's office may not withhold this information under section 552.1175 of the Government Code.

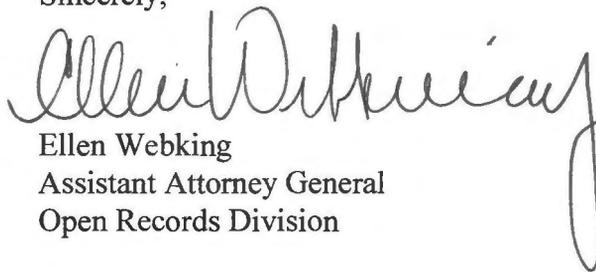
In summary, the sheriff's office must withhold the information we have indicated under section 552.101 of the Government Code in conjunction with common-law privacy. To the extent the information we have indicated under section 552.1175 of the Government Code pertains to a currently licensed peace officer who elects to restrict access to this information in accordance with section 552.1175(b) of the Government Code, the sheriff's office must withhold the information we have indicated under section 552.1175 of the Government Code. The sheriff's office must release the remaining information.

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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 "Ellen Webking". The signature is written in black ink and is positioned above the typed name and title.

Ellen Webking
Assistant Attorney General
Open Records Division

EW/bw

Ref: ID# 620440

Enc. Submitted documents

c: Requestor
(w/o enclosures)