



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 15, 2017

Ms. Sally Ortiz  
Open Records Assistant  
City of Plano  
P.O. Box 860358  
Plano, Texas 75086-0358

OR2017-03449

Dear Ms. Ortiz:

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# 645975 (Tracking No. #KENA112216).

The Plano Police Department (the "department") received a request for a specified police report. You claim some of 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.

Initially, we note you seek to withhold public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy. In Open Records Letter No. 2017-00118 (2017), this office issued a previous determination authorizing the department to withhold the dates of birth of public citizens under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a decision from this office. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 (2001). Thus, the department must withhold all dates of birth of public citizens under section 552.101 of the Government Code in conjunction with common-law privacy in accordance with the previous determination issued to the department in Open Records Letter No. 2017-00118.<sup>1</sup>

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<sup>1</sup>As our ruling is dispositive, we need not address your argument against disclosure of this 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. This office has also concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987).

Upon review, we find some of the submitted information satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the department must generally withhold the information you have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

In this instance, the requestor is a representative of the Court Appointed Special Advocates of Galveston County (“CASA”). We note the request indicates the requestor submitted a court order to the department with her request. However, our office has not been provided with a copy of the court order at issue, and the requestor has not explained how the court order grants her a right of access to information otherwise protected under common-law privacy. Thus, we have no basis to conclude the requestor has a right of access to the information at issue. Accordingly, the department must withhold the information you marked under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the department must withhold all dates of birth of public citizens under section 552.101 of the Government Code in conjunction with common-law privacy in accordance with the previous determination issued to the department in Open Records Letter No. 2017-00118. The department must withhold the information you marked under section 552.101 of the Government Code in conjunction with common-law privacy. The department 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,

A handwritten signature in black ink, appearing to read 'KH' with a flourish underneath.

Kieran Hillis  
Assistant Attorney General  
Open Records Division

KH/sb

Ref: ID# 645975

Enc. Submitted documents

c: Requestor  
(w/o enclosures)