



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 24, 2017

Mr. M. Matthew Ribitzki  
Deputy City Attorney  
City of Burleson  
141 West Renfro  
Burleson, Texas 76028

OR2017-06071

Dear Mr. Ribitzki:

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# 650331 (ORR# 302/17-0015).

The Burleson Police Department (the "department") received a request for all records pertaining to a named individual. You state the department will redact dates of birth of members of the public pursuant to the previous determination issued in Open Records Letter No. 2016-08169 (2016).<sup>1</sup> You also state the department is withholding motor vehicle record information pursuant to section 552.130(c) of the Government Code and social security numbers pursuant to section 552.147(b) of the Government Code.<sup>2</sup> You further state the department is withholding certain information pursuant to Open Records Decision No. 684

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<sup>1</sup>Open Records Letter No. 2016-08169 authorized the City of Burleson to withhold dates of birth of members of the public under section 552.101 of the Government Code in conjunction with common-law privacy without the necessity of requesting an attorney general's decision.

<sup>2</sup>Section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. *See id.* § 552.147(b).

(2009).<sup>3</sup> 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). A compilation of an individual’s criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. *Cf. U.S. Dep’t of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989) (finding significant privacy interest in compilation of individual’s criminal history by recognizing distinction between public records found in courthouse files and local police stations and compiled summary of criminal history information). Furthermore, we find a compilation of a private citizen’s criminal history is generally not of legitimate concern to the public. We note records relating to routine traffic violations are not considered criminal history information. *Cf.* Gov’t Code § 411.082(2)(B) (criminal history record information does not include driving record information).

Upon review, we find the present request requires the department to compile unspecified law enforcement records concerning the named individual. Accordingly, we find the request implicates the named individual’s right to privacy. Therefore, to the extent the department maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the department must withhold such information under section 552.101 in conjunction with common-law privacy. We note, however, the department has submitted reports which do not list the named individual as a suspect, arrestee, or criminal defendant. This information does not implicate the privacy interests of the named individual. Thus, the reports at issue may not be withheld under section 552.101 in conjunction with common-law privacy as a criminal history compilation. However, we find the information we have marked within the reports at issue satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with

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<sup>3</sup>Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain information without the necessity of requesting an attorney general decision.

common-law privacy. As no other exceptions to disclosure are raised, 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,



Kelly McWethy  
Assistant Attorney General  
Open Records Division

KSM/sb

Ref: ID# 650331

Enc. Submitted documents

c: Requestor  
(w/o enclosures)