



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 16, 2017

Mr. Thomas M. Gilliland  
Public Information Officer  
Harris County Sheriff's Office  
1200 Baker Street, 2<sup>nd</sup> Floor  
Houston, Texas 77002-1206

OR2017-13458

Dear Mr. Gilliland:

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# 662622 (HCSO File No. 17SO8001371).

The Harris County Sheriff's Office (the "sheriff's office") received a request for a specified incident report. The sheriff's office states it will release some information to the requestor. The sheriff's office claims portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> We have considered the claimed exception 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

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<sup>1</sup>Although the sheriff's office also raises section 552.108 of the Government Code, it has not provided any arguments to support this exception. Therefore, we assume the sheriff's office has withdrawn its claim this section applies to the submitted information. See Gov't Code §§ 552.301, .302.

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). The Third Court of Appeals has concluded public citizens' dates of birth are protected by common-law privacy pursuant to section 552.101. *See Paxton v. City of Dallas*, No. 03-13-00546-CV, 2015 WL 3394061, at \*3 (Tex. App.—Austin May 22, 2015, pet. denied) (mem. op.).

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. Although the sheriff's office seeks to withhold the entirety of the submitted information under section 552.101 in conjunction with common-law privacy, we note the sheriff's office has not demonstrated, nor does it otherwise appear, this is a situation in which the entirety of the information at issue must be withheld on that basis. Accordingly, the sheriff's office may not withhold the entirety of the submitted information under section 552.101 of the Government Code in conjunction with common-law privacy. Nevertheless, upon review, we find portions of the submitted information, which we have marked, are highly intimate or embarrassing and not of legitimate public concern. Thus, the sheriff's office must withhold all public citizens' dates of birth and the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find the remaining information is not confidential under common-law privacy and the sheriff's office may not withhold it under section 552.101 on that ground.

We note some of the remaining information is subject to section 552.130 of the Government Code.<sup>2</sup> Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130. Accordingly, the sheriff's office must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

In summary, the sheriff's office must withhold all public citizens' dates of birth and the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The sheriff's office must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. The sheriff's office must release the remaining information.

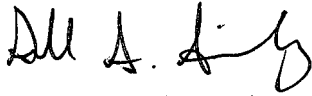
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<sup>2</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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](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,



Gerald A. Arismendez  
Assistant Attorney General  
Open Records Division

GAA/tdw

Ref: ID# 662622

Enc. Submitted documents

c: Requestor  
(w/o enclosures)