



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 23, 2017

Ms. Julie Pandya Doshier  
Counsel for City of Farmers Branch  
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.  
500 North Akard, Suite 1800  
Dallas, Texas 75201

OR2017-14076

Dear Ms. Doshier:

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# 663995 (PIR# 85481).

The Farmers Branch Police Department (the "department"), which you represent, received two requests from the same requestor for all reports pertaining to her client and twelve other named individuals. You state the department will withhold the dates of birth of living individuals not belonging to the requestor's client pursuant to Open Records Letter No. 2017-05218 (2017).<sup>1</sup> You state the department will redact certain motor vehicle record information pursuant to section 552.130(c) of the Government Code and certain social

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<sup>1</sup>Open Records Letter No. 2017-05218 is a previous determination authorizing the department to withhold the dates of birth of living individuals 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) (listing elements of second type of previous determination under section 552.301(a) of the Government Code).

security numbers pursuant to section 552.147(b) of the Government Code.<sup>2</sup> You state you will release some information. You state the city will continue to rely on Open Records Letter No. 2016-08843 (2016) for a portion of the requested information.<sup>3</sup> You claim the remaining requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim.

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. This section 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. 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

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<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(a), (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). Additionally, although you state you will withhold FBI numbers in the submitted information, you do not assert, nor does our review of our records indicate, the department is authorized to withhold an individual’s FBI number without first seeking a ruling from this office. *See id.* § 552.301(a); ORD 673.

<sup>3</sup>In Open Records Letter No. 2016-08843, we determined the department: (1) must release the court-filed document we marked pursuant to section 552.022(a)(17) of the Government Code; (2) must withhold the submitted accident report under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code but must release the redacted accident report pursuant to section 550.065(c-1) of the Transportation Code; (3) must withhold the information you have marked under section 552.101 of the Government Code in conjunction with chapter 411 and federal law; (4) must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 560.003 of the Government Code; (5) must withhold the information you have marked under section 552.101 of the Government Code in conjunction with sections 730.004 and 730.013 of the Transportation Code; (6) must withhold the photographs we marked under section 552.101 of the Government Code in conjunction with constitutional privacy and the holding in *Favish*; (7) must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy; (8) may withhold the information you marked under section 552.108(b)(1) of the Government Code; (9) must withhold the information you have marked to the extent it relates to a currently licensed peace officer who elects to restrict access to his information in accordance with section 552.1175(b); (10) must withhold the additional motor vehicle record information we have marked under section 552.130 of the Government Code; (11) must withhold the bank account number you have marked under section 552.136 of the Government Code; and (12) the remaining information must be released. *See* ORD 673.

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.

The present request seeks unspecified law enforcement records pertaining to named individuals. This request requires the department to compile the named individuals' criminal histories and implicates the named individuals' right to privacy. Therefore, to the extent the department maintains law enforcement records listing the named individuals as a suspect, arrestee, or criminal defendant, the department must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy.

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,



Kaelan A. Henze  
Assistant Attorney General  
Open Records Division

KAH/eb

Ref: ID# 663995

Enc. Submitted documents

c: Requestor  
(w/o enclosures)