



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 14, 2017

Mr. Matthew Murray
Assistant City Attorney
City of Fort Worth
200 Texas Street, 3rd Floor
Fort Worth, Texas 76102-6311

OR2017-15762

Dear Mr. Murray:

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# 668207 (No. W061667-050917).

The City of Fort Worth (the "city") received a request for any police calls or reports pertaining to a specified location during a specified time period. You state you have released some information to the requestor. We understand you will redact information under section 552.147(b) of the Government Code.¹ You claim some of the submitted information is exempted from disclosure under sections 552.101, 552.130, and 552.137 of the Government Code.² We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code exempts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't

¹We note 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 Gov't Code § 552.147(b).

²Although you do not raise sections 552.130 and 552.137 of the Government Code in your brief, we understand you to raise this exception based on your markings in the documents.

Code § 552.101. This section encompasses information confidential under section 261.201 of the Family Code, which provides, in part, as follows:

(a) [T]he following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). Upon review, we find report number 14-10497 consists of a report used or developed in an investigation under chapter 261 of the Family Code or in providing services as a result of an investigation. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code); *see also id.* § 101.003(a) (defining “child” for purposes of chapter 261 of the Family Code). Accordingly, we find this information is subject to section 261.201 of the Family Code. You have not indicated the city has adopted a rule that governs the release of this type of information. Therefore, we assume no such rule exists. Given that assumption, the information at issue is confidential pursuant to section 261.201(a) of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute). Accordingly, the city must withhold report number 14-10497 from disclosure under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.³

Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle operator’s license, driver’s license, motor vehicle title, or registration issued by this state or another state or country. Gov’t Code § 552.130(a)(1), (2). Accordingly, the city must withhold the motor vehicle record information you marked under section 552.130 of the Government Code.

Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See id.* § 552.137(a)-(c). Accordingly, the city must withhold the personal e-mail address you marked under

³As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

section 552.137, unless the individual to whom the e-mail address belongs affirmatively consent to its release.⁴ *See id.* § 552.137(b).

Section 552.101 of the Government Code also 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). The 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.). Upon review, we find the information we marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the city must withhold the information we marked, and all public citizens' dates of birth, under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find the city has failed to demonstrate the remaining information it marked is highly intimate or embarrassing and not of legitimate public interest. Accordingly, the city may not withhold the remaining information at issue under section 552.101 of the Government Code in conjunction with common-law privacy.

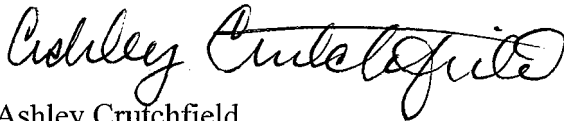
In summary, the city must withhold report number 14-10497 under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. The city must withhold the motor vehicle record information you marked under section 552.130 of the Government Code. The city must withhold e-mail address you marked under section 552.137 of the Government Code, unless the individual to whom the e-mail address belongs affirmatively consents to its release. The city must withhold the information we marked, and all public citizens' dates of birth, under section 552.101 of the Government Code in conjunction with common-law privacy. The city 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.

⁴As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

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 black ink that reads "Ashley Crutchfield". The signature is written in a cursive style with a large, stylized initial 'A'.

Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/bw

Ref: ID# 668207

Enc. Submitted documents

c: Requestor
(w/o enclosures)