



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 12, 2017

Ms. Captoria Brown
Senior Paralegal
City of Carrollton
1945 East Jackson
Carrollton, Texas 75006

OR2017-23333.

Dear Ms. Brown:

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# 685616 (City ID# 11045).

The City of Carrollton (the "city") received a request for information pertaining to a specified case. You claim portions of the submitted information are exempted from disclosure under sections 552.101, 552.108, 552.130, and 552.147 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(1) of the Government Code exempts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime if release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the information you marked relates to a pending prosecution. Based on your representation and our review, we find release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536

¹Although you do not cite to sections 552.130 and 552.147 of the Government Code in your brief to this office, we understand you to raise these sections based on your markings.

S.W.2d 559 (Tex. 1976). Thus, the city may withhold the information you marked under section 552.108(a)(1) of the Government Code.

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). This office has found personal financial information not relating to a financial transaction between an individual and a governmental body is generally highly intimate or embarrassing. *See* Open Records Decision Nos. 523.(1989) (common-law privacy protects credit reports, financial statements, and other personal financial information), 373 (1983) (sources of income not related to financial transaction between individual and governmental body protected under common-law privacy). 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.). We note the requestor has a right of access to his own date of birth. *See* Gov’t Code § 552.023 (a) (governmental body may not deny access to person to whom information relates or person’s agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Upon review, we find the information we have marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the city must withhold the information we have marked and, with the exception of the requestor’s date of birth, all public citizens’ dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy.

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(a). We note section 552.130 protects personal privacy. Accordingly, the requestor has a right of access to his own motor vehicle record information under section 552.023 of the Government Code and it may not be withheld under section 552.130. *See id.* § 552.023(a); ORD 481 at 4. Accordingly, with the exception of the requestor’s motor vehicle information, the city must withhold the motor vehicle record information you marked and we have marked under section 552.130 of the Government Code.

Section 552.147(a) of the Government Code excepts the social security number of a living individual from public disclosure. Gov't Code § 552.147. The requestor has a right to his own social security number. *See id.* § 552.023(b); ORD 481 at 4. Accordingly, with the exception of the requestor's social security number, the city may withhold the social security numbers you marked under section 552.147 of the Government Code.

In summary, the city may withhold the information you marked under section 552.108(a)(1) of the Government Code. The city must withhold the information we have marked and, with the exception of the requestor's date of birth, all public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy. With the exception of the requestor's motor vehicle information, the city must withhold the motor vehicle record information you marked and we have marked under section 552.130 of the Government Code. With the exception of the requestor's social security number, the city may withhold the social security numbers you marked under section 552.147 of the Government Code. The city must release the remaining information.²

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, 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,



Kenny Moreland
Assistant Attorney General
Open Records Division

KJM/gw

²We note the information being released contains information to which the requestor has a right of access under section 552.023 of the Government Code. *See* Gov't Code § 552.023; *see also* ORD 481 at 4. Accordingly, if the city receives another request for this same information from a different requestor, the city must again seek a ruling from this office.

Ref: ID# 685616

Enc. Submitted documents

c: Requestor
(w/o enclosures)