



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 26, 2017

Mr. Whitt L. Wyatt  
Assistant City Attorney  
Richardson Police Department  
P.O. Box 831078  
Richardson, Texas 75083-1078

OR2017-24442

Dear Mr. Wyatt:

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# 684716 (Ref. No. 17-754-755).

The Richardson Police Department (the "department") received two requests from different requestors for information pertaining to specified incidents. You state you have released some information. You claim the submitted information is excepted from disclosure under sections 552.101, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts "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. 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. The department seeks to withhold the entirety of the submitted information under section 552.101 in conjunction with common-law privacy. However, the department 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 the basis of common-law privacy. Accordingly, the department may not withhold the entirety of the submitted information under section 552.101 of the Government Code on that basis.

However, upon review, we find some of the submitted information, which you have marked, satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. We note the information at issue contains the dates of birth of some of the requestors. Section 552.023(a) of the Government Code states that a person or a person's authorized representative has a special right of access to information that is excepted from public disclosure under laws intended to protect that person's privacy interest. *See* Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). Accordingly, the respective requestors have a right of access to their own private information and dates of birth under section 552.023 of the Government Code. *See* Gov't Code § 552.023(a); ORD 481 at 4. Therefore, the department may not withhold the respective requestors' own information from them under common-law privacy. Accordingly, the department must generally withhold the marked information and all public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy; however, the department may not withhold the respective requestors' own private information or dates of birth from them under section 552.101 on that basis.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license or permit, motor vehicle title or registration, or a personal identification document issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130(a). Upon review, we find the motor vehicle record information you have marked, in addition to the information we have marked, are subject to section 552.130 of the Government Code. However, because section 552.130 protects privacy interests, the respective requestors have a right of access to their own motor vehicle record information pursuant to section 552.023. Thus, the department must generally withhold the marked information under section 552.130 of the Government Code; however, to the extent the marked motor vehicle record information belongs to any requestor, the department may not withhold it from that requestor 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. *Id.* § 552.147(a). We note the submitted information contains some of the requestors' social security numbers. Section 552.147 is based on privacy principles and each requestor has a right of access to his own social security number. *See id.* § 552.023(a); ORD 481. Thus, the department may not withhold the requestors' own social security numbers from them under section 552.147 of the Government Code.

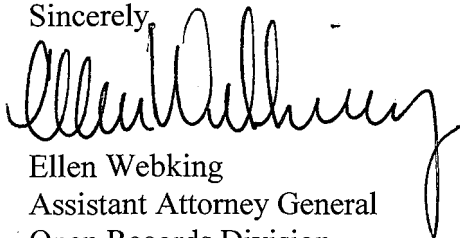
Accordingly, the department may generally withhold the social security numbers within the remaining information under section 552.147 of the Government Code; however, the department may not withhold the requestors' own social security numbers from them under section 552.147 of the Government Code.

In summary, the department must generally withhold the information you marked and all public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy; however, the department may not withhold the respective requestors' own private information or dates of birth from them under section 552.101 on that basis. The department must generally withhold the marked information under section 552.130 of the Government Code; however, to the extent the marked motor vehicle record information belongs to any requestor, the department may not withhold it from that requestor under section 552.130 of the Government Code. The department may generally withhold the social security numbers within the remaining information under section 552.147 of the Government Code; however, the department may not withhold the requestors' own social security numbers from them under section 552.147 of the Government Code. The department must release the remaining information to the respective requestors.<sup>1</sup>

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,



Ellen Webking  
Assistant Attorney General  
Open Records Division

EW/tdw

---

<sup>1</sup>We note the requestors have a special right of access to some of the information being released to the respective requestors. See Gov't Code § 552.023(b); ORD 481 at 4. Thus, if the university receives another request for this information from a different requestor, then the university must again seek a decision from this office.

Ref: ID# 684716

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)