



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 31, 2019

Mr. L. Brian Narvaez
Counsel for the City of McKinney
Brown & Hofmeister LLP
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2019-02910

Dear Mr. Narvaez:

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# 750743 (P009992-110518).

The McKinney Police Department (the "department"), which you represent, received a request for a specified police report. You state the department will withhold motor vehicle record information pursuant to section 552.130(c) of the Government Code.¹ You also state the department will redact the dates of birth of members of the public pursuant to the previous determination issued in Open Records Letter No. 2018-07366 (2018).² You claim a portion of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim 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

¹Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(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).

²Open Records Letter No. 2018-07366 authorizes the department to withhold public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a ruling from this office.

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 or 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).

Upon review, we find you have not demonstrated the information you have marked is highly intimate or embarrassing and not of legitimate public concern. Thus, no portion of the submitted information may be withheld under section 552.101 in conjunction with common-law privacy. Accordingly, the submitted information must be released.

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,

Melanie Villars
Assistant Attorney General
Open Records Division

MJV/eb

Ref: ID# 750743

Enc. Submitted documents

c: Requestor
(w/o enclosures)