



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

February 4, 2019

Ms. DeAndrea Bradford  
Assistant City Attorney  
Arlington Police Department  
Mail Stop 04-0200  
P.O. Box 1065  
Arlington, Texas 76004-1065

OR2019-03164

Dear Ms. Bradford:

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# 748931 (PIR No. W078346).

The Arlington Police Department (the "department") received a request for two specified reports. You claim 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 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). 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.). Upon review, we agree report number 2018-02630424 contains information that is considered highly intimate or embarrassing and is not of legitimate concern to the public. Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, the entire report must be withheld to protect the individual's privacy. In this instance, withholding only the individual's identity or certain details of the report at issue from this requestor would not preserve the subject individual's common-law right of privacy. Accordingly, to protect the privacy of the individual to whom the information relates, the department must withhold report number 2018-02630424 in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy. However, the department has not demonstrated, nor does it otherwise appear, the remaining report 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 remaining report under section 552.101 of the Government Code on that basis. However, upon review, we find some of the remaining information satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Thus, the department must withhold all public citizens' dates of birth, as well as the information we have marked, under section 552.101 of the Government Code in conjunction with common-law privacy. However, the department has failed to demonstrate any of the remaining information is highly intimate or embarrassing information. Therefore, the department may not withhold any of the remaining information under section 552.101 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.<sup>1</sup> See Gov't Code § 552.130. Accordingly, the department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

In summary, the department must withhold report number 2018-02630424 in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold all public citizens' dates of birth and the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. The department must release the remaining information.

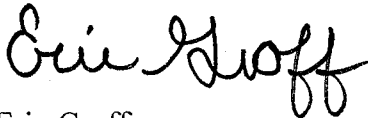
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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,

A handwritten signature in black ink that reads "Erin Groff". The signature is written in a cursive, flowing style.

Erin Groff  
Assistant Attorney General  
Open Records Division

EMG/eb

Ref: ID# 748931

Enc. Submitted documents

c: Requestor  
(w/o enclosures)