



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 1, 2019

Mr. Cary D. Kirby  
County Attorney  
Angelina County  
P.O. Box 1845  
Lufkin, Texas 75902-1845

OR2019-08745

Dear Mr. Kirby:

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# 757185.

Angelina County (the "county") received a request for three categories of information pertaining to a specified case. You indicate you have released some of the requested information to the requestor. You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.130, and 552.147 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note you have redacted motor vehicle record information pursuant to section 552.130(c) of the Government Code and social security numbers pursuant to section 552.147(b) of the Government Code.<sup>2</sup> Accordingly, the county may withhold this information

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<sup>1</sup>We note although you raise section 552.101 of the Government Code in conjunction with constitutional privacy, you make no arguments to support this assertion. Therefore, we assume you have withdrawn your claim that this exception applies to the submitted information. *See* Gov't Code §§ 552.301, .302.

<sup>2</sup>We note section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 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). Section 552.147(b) of the

without seeking a decision from this office. We also note the county has redacted dates of birth. You do not assert, nor does our review of the records indicate, you have been authorized to withhold this information without seeking a ruling from this office. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 (2001). Therefore, information must be submitted in a manner that enables this office to determine whether the information comes within the scope of an exception to disclosure. In this instance, we can discern the nature of the redacted information. Thus, being deprived of this information does not inhibit our ability to make a ruling. In the future, however, the county should refrain from redacting any information that it is not authorized to withhold in seeking an open records ruling. Failure to do so may result in the presumption the redacted information is public. *See* Gov't Code § 552.302.

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. 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. 600 (1992) (employee's designation of retirement beneficiary, choice of insurance carrier, election of optional coverages, direct deposit authorization, forms allowing employee to allocate pretax compensation to group insurance, health care or dependent care), 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.). Upon review, we find the information we marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the county 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 county has failed to demonstrate any of the remaining information is highly intimate or embarrassing and not of legitimate public interest. Accordingly, the county may not withhold any of the remaining information under section 552.101 of the

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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 id.* § 552.147(b).

Government Code in conjunction with common-law privacy. The county 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.

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,



Ashley Crutchfield  
Assistant Attorney General  
Open Records Division

AC/mo

Ref: ID# 757185

Enc. Submitted documents

c: Requestor  
(w/o enclosures)