



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 18, 2020

Ms. Brandy Kidwell
Records Division
North Richland Hills Police Department
P.O. Box 820609
North Richland Hills, Texas 76182-0609

OR2020-08483

Dear Ms. Kidwell:

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# 818269 (ORR 20-0050).

The North Richland Hills Police Department (the "department") received a request for two specified incident reports. We understand you will redact social security numbers of living individuals pursuant to section 552.147(b) of the Government Code.¹ You state you will release some information to the requestor. You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.130 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

¹ Section 552.147(b) of the 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 Gov't Code § 552.147(b).

Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Additionally, 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 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 find some of the submitted information satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Therefore, the department must withhold the information we marked and all living public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy.

You state the department will redact motor vehicle record information pursuant to section 552.130(c) of the Government Code.² Section 552.130 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. Accordingly, except for the information we marked for release, the department must withhold the motor vehicle record information you marked, and the additional information we marked, under section 552.130 of the Government Code. However, we find you have failed to demonstrate the information we have marked for release is subject to section 552.130.

In summary, the department must withhold the information we marked and all living public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy. Except for the information we marked for release, the department must withhold the motor vehicle record information you marked, and the additional information we marked, under section 552.130 of the Government Code. The department must release the remaining information to the requestor.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open

² Section 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).

Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Amy Shipp
Assistant Attorney General
Open Records Division

ALS/jxd

Ref: ID# 818269

Enc. Submitted documents

c: Requestor
(w/o enclosures)