



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 11, 2020

Ms. Shannon C. Francis  
Civil Division Chief  
Williamson County Attorney's Office  
405 M.L.K. Street #7  
Georgetown, Texas 78626

OR2020-20067

Dear Ms. Francis:

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# 839253.

Williamson County (the "county") received a request for all calls for service related to a specified address during a specified time period. 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. This section encompasses section 81.046 of the Health and Safety Code, which provides, in part:

- (a) Reports, records, and information received from any source, including from a federal agency or from another state, furnished to a public health district, a health authority, a local health department, or the [Texas Department of State Health Services] that relate to cases or suspected cases of diseases or health conditions are confidential and may be used only for the purposes of this chapter.
- (b) Reports, records, and information relating to cases or suspected cases of diseases or health conditions are not public information under [the Act], and

may not be released or made public on subpoena or otherwise except as provided by Subsections (c), (c-1), (d), and (f).

Health & Safety Code § 81.046(a), (b). In Open Records Decision No. 577 (1990), this office concluded any information acquired or created during an investigation under chapter 81 of the Health and Safety Code is confidential and may not be released unless an exception in the statute applies. *See id.* § 81.046(b)-(d), (f); ORD 577. You claim some of the submitted information is confidential under section 81.046 of the Health and Safety Code. Upon review, we find the information at issue consists of reports, records, or information that relates to cases or suspected cases of diseases or health conditions for purposes of section 81.046 of the Health and Safety Code. We understand none of the release provisions of section 81.046 are applicable. Accordingly, the county must withhold the information you marked under section 552.101 of the Government Code in conjunction with section 81.046 of the Health and Safety Code.

Section 552.101 of the Government Code also 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. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). 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 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 at issue satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Therefore, the county must withhold the dates of birth of public citizens and the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, some of the remaining information you marked pertains to an individual who has been de-identified and whose privacy is, thus, protected. Further, we find the county has failed to demonstrate the remaining information is highly intimate or embarrassing and of no legitimate public interest. Thus, the county may not withhold the remaining information at issue 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. *See* Gov't Code § 552.130. Upon review, we find the remaining information contains motor vehicle record information. Accordingly, the county must withhold the motor vehicle record information you marked and the additional information we marked under section 552.130 of the Government Code.

In summary, the county must withhold the information you marked under section 552.101 of the Government Code in conjunction with section 81.046 of the Health and Safety Code. The county must withhold dates of birth of public citizens and the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. The county must withhold the motor vehicle record information you marked and the additional information we marked under section 552.130 of the Government Code. 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open 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,

Sean McCormick  
Assistant Attorney General  
Open Records Division

SMC/be

Ref: ID# 839253

Enc. Submitted documents

c: Requestor  
(w/o enclosures)