



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 7, 2020

Mr. Trenton M. Dietz  
Assistant City Attorney  
City of Abilene  
P.O. Box 60  
Abilene, Texas 79604-0060

OR2020-30393

Dear Mr. Dietz:

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# 856357 (ORR# 20-1943).

The City of Abilene (the "city") received a request for the incident report and 9-1-1 calls related to a specified incident. You claim 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 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). 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 have marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the city must withhold the information we

have marked and the public citizen's date of birth under section 552.101 of the Government Code in conjunction with common-law privacy.<sup>1</sup> However, we find you have failed to demonstrate the remaining information it marked is highly intimate or embarrassing and not of legitimate public interest. Therefore, the city may not withhold the remaining information at issue under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by this state or another state or country. *See* Gov't Code § 552.130(a). Accordingly, the city must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. However, you have failed to demonstrate any of the remaining information you marked is subject to section 552.130. Thus, the city may not withhold any of the remaining information at issue under section 552.130 of the Government Code.

In summary, the city must withhold the information we have marked and the public citizen's date of birth under section 552.101 of the Government Code in conjunction with common law privacy. The city must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. The city 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,

Tim Neal  
Assistant Attorney General  
Open Records Division

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<sup>1</sup> As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

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Enc. Submitted documents

c: Requestor  
(w/o enclosures)