



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 7, 2022

Ms. Stacie S. White  
Counsel for the Town of Flower Mound  
Taylor, Olson, Adkins, Sralla & Elam, L.L.P.  
6000 Western Place, Suite 200  
Fort Worth, Texas 76107-4654

OR2022-00629

Dear Ms. White:

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# 924680.

The Flower Mound Police Department (the "department"), which you represent, received a request for a specified report. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered your claimed exceptions and reviewed the submitted information.

Initially, we note you have redacted portions of the information you submitted for our review. You state the department will withhold motor vehicle record information pursuant to section 552.130(c) of the Government Code, social security numbers pursuant to section 552.147(b) of the Government Code.<sup>1</sup>

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.*

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<sup>1</sup> 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 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).

§ 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is 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. Indus. Found.*, 540 S.W.2d 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 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.). However, the public has a legitimate interest in knowing the details of a crime. See *Lowe v. Hearst Communications, Inc.*, 487 F.3d 246, 250 (5th Cir. 2007) (noting a "legitimate public interest in facts tending to support an allegation of criminal activity" (citing *Cinel v. Connick*, 15 F.3d 1338, 1345-46 (1994))). Determinations under common-law privacy must be made on a case-by-case basis. See Open Records Decision No. 373 at 4 (1983); *Indus. Found.*, 540 S.W.2d at 685 (whether matter is of legitimate interest to public can be considered only in context of each particular case). Upon review, we conclude some of the submitted information meets the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the department must withhold the public citizen's date of birth and the additional information you have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

As noted above, you state the department will withhold motor vehicle record information, which you marked, pursuant to section 552.130(c) of the Government Code. We note the remaining information contains additional motor vehicle record information. 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 a personal identification document issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130(a). Accordingly, the department must withhold the motor vehicle record information you marked under section 552.130 of the Government Code.

Section 552.136 of the Government Code provides, "[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." *Id.* § 552.136(b);

*see id.* § 552.136(a) (defining “access device”). Upon review, the department must withhold the information you have marked under section 552.136 of the Government Code.

In summary, the department must withhold the public citizen’s date of birth and the additional information you 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 you marked under section 552.130 of the Government Code. The department must withhold the information you have marked under section 552.136 of the Government Code. The department 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,

Jesse Harvey  
Assistant Attorney General  
Open Records Division

JHI/mo

Ref: ID# 924680

Enc. Submitted documents

c: Requestor  
(w/o enclosures)