



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 20, 2022

Mr. Andrew Wipke
Assistant County Attorney
Fort Bend County
401 Jackson Street 3rd Floor
Richmond, Texas 77469

OR2022-15555

Dear Mr. Wipke:

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# 943347.

The Fort Bend County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a specified incident. The sheriff's office states it will withhold information pursuant to section 552.147(b) of the Government Code.¹ The sheriff's office claims some of the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "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 the *Industrial Foundation* decision. *Id.* at 683. The Third Court of Appeals has concluded public citizens' dates of birth are protected by

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 under the Act. *See* Gov't Code § 552.147(b).

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, we note the names, home addresses, and telephone numbers of members of the public are generally not highly intimate or embarrassing. *See Open Records Decision Nos. 551 at 3 (1990) (disclosure of person’s name, address, or telephone number not invasion of privacy), 455 at 7 (1987) (home addresses and telephone numbers not protected under privacy).* In addition, this office has also found the public has a legitimate public interest in the details of a crime. *See Open Records Decision No. 400 at 4 (1983). See generally Lowe v. Hearst Communications, Inc.*, 487 F.3d 246, 250 (5th Cir. 2007) (noting “legitimate public interest in facts tending to support an allegation of criminal activity” (citing *Cinel v. Connick*, 15 F.3d 1338, 1345-46 (1994))). The requestor has a right of access to his own date of birth pursuant to section 552.023 of the Government Code. *See Gov’t Code § 552.023(a)* (“[a] person or a person’s authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person’s privacy interests”); *Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves).* Nevertheless, the sheriff’s office must withhold the submitted dates of birth that do not pertain to the requestor under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find none of the remaining information satisfies the standard articulated by the Texas Supreme Court in the *Industrial Foundation* decision. Accordingly, the remaining information is not confidential under common-law privacy, and the sheriff’s office may not withhold it under section 552.101 on that ground.

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.* The sheriff’s office must withhold the information it has marked under section 552.130 of the Government Code. The sheriff’s office must also withhold the driver’s license and license plate numbers and license state and years in the remaining information on that ground.

In summary, the sheriff’s office must withhold the following: (1) the submitted dates of birth that do not pertain to the requestor under section 552.101 of the Government Code in conjunction with common-law privacy; (2) the information it has marked under section 552.130 of the Government Code; and (3) the driver’s license and license plate numbers and license state and years in the remaining information under section 552.130 of the Government Code. The sheriff’s office must release the remaining information.²

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.

² Because the requestor has a special right of access to the information being released, the sheriff’s office must again seek a decision from this office if it receives a request for the same information from another requestor. *See Fam. Code § 58.008(d).*

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,

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/be

Ref: ID# 943347

Enc. Submitted documents

c: Requestor
(w/o enclosures)