



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 17, 2022

Lt. Luis Martinez  
Laredo Police Department  
4712 Maher Avenue  
Laredo, Texas 78042-0579

OR2022-14156

Dear Lt. Martinez:

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# 947377 (ORR# W023184).

The Laredo Police Department (the "department") received a request for information pertaining to specified addresses and named individuals. The department claims the submitted information is excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> We have considered the claimed exception and reviewed the submitted information. We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

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.* § 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

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<sup>1</sup> Although the department also raises section 552.108 of the Government Code, it has not submitted arguments explaining how this exception applies to the submitted information. Therefore, we presume the department no longer asserts this exception. *See* Gov't Code §§ 552.301, .302.

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.). A compilation of an individual’s criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. *Cf. U.S. Dep’t of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989) (finding significant privacy interest in compilation of individual’s criminal history by recognizing distinction between public records found in courthouse files and local police stations and compiled summary of criminal history information). Furthermore, we find a compilation of a private citizen’s criminal history is generally not of legitimate concern to the public. Upon review, we find the submitted documents do not list any of the named individuals as a suspect, arrestee, or criminal defendant. Thus, this information does not consist of a compilation of any of the named individuals’ criminal histories, and the department may not withhold it under section 552.101 on that ground. Nevertheless, the department must withhold the submitted dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy. We also find some of the remaining information, which we have marked, satisfies the standard articulated by the Texas Supreme Court in the *Industrial Foundation* decision. Accordingly, the department must also withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, the remaining information is not confidential under common-law privacy, and the department may not withhold it under section 552.101 on that ground.

Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential.<sup>2</sup> Gov’t Code § 552.1175. For purposes of section 552.1175, “family member” means a spouse, minor child, or adult child who resides in the person’s home. *Cf.* Gov’t Code § 552.117(c) (“family member” has meaning assigned by Fin. Code § 31.006(d)). Section 552.1175, applies, in part, to “current or honorably retired peace officers as defined by Article 2.12, Code of Criminal Procedure[.]” Gov’t Code § 552.1175(a)(1)); *see id.* § 552.003(1-b) (defining “honorably retired” for purposes of the Act). Accordingly, the department must withhold the information we have marked under section 552.1175 of the Government Code if the individual at issue is a current or honorably retired peace officer and elects to restrict access to the information at issue in accordance with section 552.1175(b) of the Government Code. Conversely, if the individual at issue is not a current or honorably retired peace officer or does not elect to restrict access to his information in accordance with section 552.1175(b), then the department may not withhold this information under section 552.1175 of the Government Code.

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 department must withhold

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<sup>2</sup> The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body. *See* Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987).

the submitted driver's license and license plate numbers and issuing state under section 552.130 of the Government Code.

In summary, the department must withhold the following: (1) the submitted dates of birth and the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy; (2) the information we have marked under section 552.1175 of the Government Code if the individual at issue is a current or honorably retired peace officer and elects to restrict access to the information at issue in accordance with section 552.1175(b) of the Government Code; and (3) the submitted driver's license and license plate numbers and issuing state under section 552.130 of the Government Code. The department must release the remaining information.<sup>3</sup>

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,

James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/mo

Ref: ID# 947377

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>3</sup> We note the information at issue contains social security numbers. 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. Gov't Code § 552.147(b).