



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 28, 2022

Mr. Adam Bitter
General Counsel
Office of the Texas Secretary of State
P.O. Box 12887
Austin, Texas 78711-2887

OR2022-22160

Dear Mr. Bitter:

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# 962619 (SOS PIR No. 22-0510).

The Office of the Secretary of State (the "secretary's office") received a request for voter registration and voting history information pertaining to six named individuals.¹ You state the secretary's office will release some of the requested information upon payment of costs. You also state the secretary's office will redact motor vehicle record information pursuant to section 552.130(c) of the Government Code and social security numbers pursuant to section 552.147(b) of the Government Code.² You claim some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.³

¹ The secretary's office states it sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

² 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 without the necessity of requesting a decision from this office. *See id.* § 552.147(b).

³ The secretary's office explains some of the requested information is contained in its statewide computerized voter registration database, which it maintains pursuant to chapter 18 of the Election Code. We note the secretary's office informs us the requestor did not make his request to the secretary's office pursuant to chapter 18 of the Election Code. *See, e.g.*, Elec. Code § 18.066 (addressing availability of secretary's office's

Section 552.101 of the Government Code exempts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This section encompasses information made confidential by federal law. You raise the National Voter Registration Act (the “NVRA”), 52 U.S.C. §§ 20501–20511. Section 20507 of title 52 of the United States Code identifies requirements with respect to the administration of voter registration. *See* 52 U.S.C. § 20507. This section provides each state, in the administration of voter registration for elections for federal office, shall “ensure that the identity of the voter registration agency through which any particular voter is registered is not disclosed to the public.” *Id.* § 20507(a)(6); *see also id.* § 20506 (discussing designation of voter registration agencies under the NVRA). You inform us the information at issue contains information regarding the location of “source codes” and specific information regarding a named individual’s voter registration agency.

We note the term “identity” for purposes of section 20507(a)(6) is not defined in the NVRA. Therefore, the Code Construction Act requires us to construe this term “according to the rules of grammar and common usage.” Gov’t Code § 311.011(a); *see* Attorney General Opinion JC-0419 at 3 (2001). Statutory construction should focus initially “‘on the literal text of the statute in question’ because ‘the text of the statute is the law.’” *Getts v. State*, 155 S.W.3d 153, 155 (Tex. Crim. App. 2005); *Boykin v. State*, 818 S.W.2d 782, 785 (Tex. Crim. App. 1991); Attorney General Opinion GA-0354 at 2 (2005). The Merriam-Webster Dictionary includes a definition of “identity” as “who someone is: the name of a person.” Merriam-Webster Dictionary Online, www.merriam-webster.com/dictionary/identity (last visited June 23, 2016) (providing “simple definition” of “identity”). *See also* 26 U.S.C. § 6103(b)(6) (providing the term “taxpayer identity” means the name of a person with respect to whom a tax return is filed, his mailing address, his taxpayer identifying number, or a combination thereof); Open Records Decision No. 540 at 4 (1990) (finding “[a] name is by common usage often commonly considered the substantial equivalent of identity”). Upon review of the submitted information and your representations, we find some of the information at issue, which we have marked, contains the name of the agency in which a named individual registered to vote for purposes of section 20507(a)(6). Accordingly, the secretary’s office must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 20507(a)(6) of title 52 of the United States Code. However, we note the remaining information at issue does not reveal the identity of the voter registration agency through which a particular voter is registered. Thus, we find you have failed to demonstrate remaining the information at issue is subject to section 20507(a)(6) of title 52 of the United States Code, and the secretary’s office may not withhold any portion of the remaining information under section 552.101 of the Government Code on that basis.

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

statewide computerized voter registration list information; providing to receive information, person must submit affidavit to secretary’s office stating the person will not use information obtained in connection with advertising or promoting commercial products or services). Therefore, we do not address the requestor’s access to the requested information under that chapter.

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. 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.). Therefore, the secretary's office must withhold the dates of birth we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find you have not demonstrated any of the remaining information at issue is highly intimate or embarrassing and not of legitimate public concern. Thus, the secretary's office may not withhold any portion of the remaining information under section 552.101 in conjunction with common-law privacy.

As noted above, you state the secretary's office will redact motor vehicle record information pursuant to section 552.130(c) of the Government Code. Section 552.130 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. Accordingly, the secretary's office must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. However, we find the remaining information at issue does not consist of motor vehicle record information subject to section 552.130 of the Government Code. Therefore, the secretary's office may not withhold any portion of the remaining information under section 552.130.

As noted above, you state the secretary's office will redact social security numbers pursuant to section 552.147(b) of the Government Code. Section 552.147(a) of the Government Code excepts the social security number of a living individual from public disclosure. *Id.* § 552.147(a). Accordingly, the secretary's office may withhold the social security numbers we have marked under section 552.147 of the Government Code. However, we find the remaining information at issue does not consist of a social security number, and the secretary's office may not withhold any portion of the remaining information under section 552.147 of the Government Code.

In summary, the secretary's office must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 20507(a)(6) of title 52 of the United States Code. The secretary's office must withhold the dates of birth we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The secretary's office must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. The secretary's office may withhold the social security numbers we have marked under section 552.147 of the Government Code. The secretary's office 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,

Alexandra C. Burks
Assistant Attorney General
Open Records Division

ACB/jxd

Ref: ID# 962619

Enc. Submitted documents

c: Requestor
(w/o enclosures)