



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 12, 2022

Ms. Michelle Rollins  
Legal Department  
City of Sherman  
P.O. Box 1106  
Sherman, Texas 75091

OR2022-27734

Dear Ms. Rollins:

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# 971645 (OR-6401, SPD# 450).

The Sherman Police Department (the "department") received a request for information pertaining to a specified incident. You claim 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.

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. 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 *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.).

Upon review, we find some of the submitted information satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Therefore, the department must

withhold all public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find the department has failed to demonstrate the remaining information is highly intimate or embarrassing and of no legitimate public interest. Thus, the department may not withhold the remaining information under section 552.101 in conjunction with common-law privacy.

Section 552.101 of the Government Code also encompasses chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communication districts. Section 772.318 of the Health and Safety Code applies to an emergency communication district for a county with a population of more than 20,000 and makes confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a 9-1-1 service supplier. *See* Open Records Decision No. 649 (1996). We understand the City of Sherman is part of an emergency communication district that is subject to section 772.318 of the Health and Safety Code. To the extent the remaining information contains the originating telephone number or address of a 9-1-1 caller furnished by a 9-1-1 service supplier, the department must withhold such information under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. To the extent the submitted information does not contain the originating telephone number or address of a 9-1-1 caller provided by a 9-1-1 service supplier, the department may not withhold any of the remaining information on that ground.

In summary, the department must withhold all public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy. To the extent the remaining information contains the originating telephone number or address of a 9-1-1 caller furnished by a 9-1-1 service supplier, the department must withhold such information under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety 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,

Meagan Hunter  
Assistant Attorney General  
Open Records Division

MH/jm

Ref: ID# 971645

Enc. Submitted documents

c: Requestor  
(w/o enclosures)