



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 21, 2022

Mr. Adam Anderson  
Assistant County Attorney  
Montgomery County  
501 North Thompson, Suite 300  
Conroe, Texas 77301

OR2022-39830

Dear Mr. Anderson:

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# 991895 (ORR# 22PIA422).

The Montgomery County Sheriff's Office (the "sheriff's office") received a request for a specified incident report. The sheriff's office claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception 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. This section 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

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.). Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated the requestor knows the identity of the individual involved, as well as the nature of certain incidents, the entirety of the information must be withheld to protect the individual's privacy.

The sheriff's office argues the submitted information must be withheld in its entirety on the basis of common-law privacy. However, the sheriff's office has not demonstrated, nor does it otherwise appear, this is a situation in which the entirety of the submitted information must be withheld on that ground. Nevertheless, the sheriff's office must withhold the submitted dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy. We find some of the remaining information, which we have marked, also satisfies the standard articulated by the Texas Supreme Court in the *Industrial Foundation* decision. Accordingly, the sheriff's office must also withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. 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.<sup>1</sup> *See* Gov't Code § 552.130. The sheriff's office must withhold the submitted motor vehicle record information under section 552.130 of the Government Code.

In summary, the sheriff's office must withhold 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. The sheriff's office must also withhold the submitted motor vehicle record information under section 552.130 of the Government Code. The sheriff's office must release the remaining information.<sup>2</sup>

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<sup>1</sup> The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987).

<sup>2</sup> We note the information at issue contains a social security number. 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).

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/jxd

Ref: ID# 991895

Enc. Submitted documents

c: Requestor  
(w/o enclosures)