



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 7, 2016

Ms. Akilah Mance  
Counsel for the City of Stafford  
Olson & Olson, LLP  
2727 Allen Parkway, Suite 600  
Houston, Texas 77019-2133

OR2016-20175

Dear Ms. Mance:

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# 628811 (Ref. No. COS16-080).

The Stafford Police Department (the "department"), which you represent, received a request for information pertaining to a specified motor vehicle accident. You state the department has released some responsive information. You state the department will withhold social security numbers pursuant to section 552.147(b) of the Government Code.<sup>1</sup> You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim 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 information made confidential by 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

---

<sup>1</sup>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. See Gov't Code § 552.147(b).

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). Section 772.318 is not applicable, however, to information furnished by the 9-1-1 caller. *Id.* at 2; *see id.* at 3 (language of confidentiality provision controls scope of its protection). You state the City of Stafford is part of an emergency communication district established under chapter 772 of the Health and Safety Code. You contend some of the submitted information consists of the originating telephone number of a 9-1-1 caller furnished to the city by a 9-1-1 service supplier. However, upon review, we find the information at issue was provided directly by the 9-1-1 caller at issue. Thus, we find this information does not consist of the originating telephone number of a 9-1-1 caller that was furnished by a 9-1-1 service supplier so as to be subject to chapter 772 of the Health and Safety Code. Accordingly, no portion of the submitted information may be withheld under section 552.101 in conjunction with section 772.318 of the Health and Safety Code.

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 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. This office has found personal financial information not relating to a financial transaction between an individual and a governmental body is excepted from required public disclosure under common-law privacy. *See, e.g.*, Open Records Decision Nos. 545 (1990) (common-law privacy protects mortgage payments, assets, bills, and credit history), 523 (1989) (common-law privacy protects credit reports, financial statements, and other personal financial information), 373 (1983) (sources of income not related to financial transaction between individual and governmental body protected under common-law privacy). In considering whether a public citizen's date of birth is private, the Third Court of Appeals looked to the supreme court's rationale in *Texas Comptroller of Public Accounts v. Attorney General of Texas*, 354 S.W.3d 336 (Tex. 2010). *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.). The supreme court concluded public employees' dates of birth are private under section 552.102 of the Government Code because the employees' privacy interest substantially outweighed the negligible public interest in disclosure.<sup>2</sup> *Tex. Comptroller*, 354 S.W.3d at 347-48. Based on *Texas Comptroller*, the court of appeals concluded the privacy rights of public employees apply equally to public citizens, and thus, public citizens' dates of birth are also protected by common-law privacy pursuant to section 552.101. *City of Dallas*, 2015 WL 3394061, at \*3. Upon review, we find most of

---

<sup>2</sup>Section 552.102(a) excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Gov't Code § 552.102(a).

the information you have marked and the information we have indicated meets the standard articulated by the Texas Supreme Court in *Industrial Foundation*. However, we find none of the remaining information is highly intimate or embarrassing and of no legitimate public interest. Therefore, the city may not withhold this information under section 552.101 of the Government Code on this basis. Accordingly, with the exception of the information we have marked for release, the department must withhold the information you have marked and the information we have indicated under section 552.101 of the Government Code in conjunction with common-law privacy.

The department states it will withhold motor vehicle record information pursuant to section 552.130(c) of the Government Code.<sup>3</sup> However, we find the remaining information includes additional information subject to section 552.130 of the Government Code, which 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(a). Thus, the department must withhold the motor vehicle record information you have marked, the motor vehicle record information we have marked, and all audible motor vehicle record information under section 552.130 of the Government Code.

In summary, with the exception of the information we have marked for release, the department must withhold the information you have marked and the information we have indicated under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the motor vehicle record information you have marked, the motor vehicle record information we have marked, and all audible motor vehicle record information under section 552.130 of the Government Code. The remaining information must be released.

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.

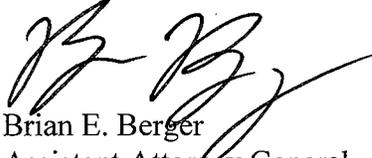
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

---

<sup>3</sup>Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 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).

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Berger", written over the typed name.

Brian E. Berger  
Assistant Attorney General  
Open Records Division

BB/akg

Ref: ID# 628811

Enc. Submitted documents

c: Requestor  
(w/o enclosures)