



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 9, 2016

Lieutenant Ricardo Gonzalez
Laredo Police Department
4712 Maher Avenue
Laredo, Texas 78041

OR2016-05457

Dear Lt. Gonzales:

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# 601082 (Ref. No. W005585-120915).

The City of Laredo (the "city") received a request for specified video and audio recordings related to a named city police department officer on a specified date. You state you have released some information. You claim the submitted information is excepted from disclosure under sections 552.101, 552.130, and 552.152 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release. Gov't Code § 552.130(a). Upon review, we find the submitted video recording contains information subject to section 552.130. You state the city does not have the technological capability to redact the motor vehicle record information from the video

¹Although you do not explicitly raise section 552.152 of the Government Code, we understand you to raise this exception based on the substance of your argument. Additionally, we note the city did not comply with section 552.301 of the Government Code in requesting this decision for a portion of the submitted information. *See* Gov't Code § 552.301(b), (e). Nonetheless, because sections 552.101, 552.130, and 552.152 of the Government Code can provide compelling reasons to overcome the presumption of openness, we will consider the applicability of sections 552.101, 552.130, and 552.152 for the information at issue. *See id.* §§ 552.007, .302, .352.

recording. Accordingly, the city must withhold the submitted video recording in its entirety under section 552.130.² See Open Records Decision No. 364 (1983).

Section 552.101 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 the doctrine of common-law privacy. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). Under the common-law right of privacy, an individual has a right to be free from the publicizing of private affairs in which the public has no legitimate concern. *Id.* at 682. 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.³ *Texas 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. Thus, the city must withhold all public citizens’ dates of birth in the submitted audio recording under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the city must withhold the submitted video recording in its entirety under section 552.130 of the Government Code and the dates of birth of public citizens in the submitted audio recording under section 552.101 of the Government Code in conjunction with common-law privacy. The city must release the remaining information in the submitted audio recording.

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/>

²As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

³Section 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).

[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 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 "Matthew Taylor", with a long horizontal flourish extending to the right.

Matthew Taylor
Assistant Attorney General
Open Records Division

MT/bhf

Ref: ID# 601082

Enc. Submitted documents

c: Requestor
(w/o enclosures)