



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 31, 2017

Ms. Shelley Willis  
Records Staff Manager  
City of Leander  
705 Leander Drive  
Leander, Texas 78641

OR2017-06670

Dear Ms. Willis:

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# 651545.

The Leander Police Department (the "department") received a request for information pertaining to a specified incident. You state the department will release some information. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(1) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A governmental body claiming section 552.108 must explain how and why this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You generally assert the submitted information deals with the detection, investigation, or prosecution of crime. However, you do not provide any arguments explaining release of the information at issue would interfere with any specific criminal investigations being conducted by the department. We therefore conclude the department may not withhold any of the submitted information under section 552.108(a)(1) of the Government Code.

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. *See* Gov't Code § 552.130. Upon review, we find portions of the submitted information consist of motor vehicle record information. We note section 552.130 protects personal privacy. Section 552.023(a) of the Government Code states "a person . . . has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests." Gov't Code § 552.023(a); *see* Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Accordingly, the requestor has a right of access to his motor vehicle record information pursuant to section 552.023 of the Government Code and it may not be withheld from him under section 552.130. We note the submitted video recordings contain motor vehicle record information subject to section 552.130 that does not relate to the requestor. You state the department does not have the technological capability to redact this motor vehicle record information from the recordings. Accordingly, we conclude the department must withhold the submitted video recordings in their entireties and the motor vehicle record information we marked under section 552.130 of the Government Code.

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 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. The court of appeals has concluded public citizens' dates of birth are protected by common-law privacy pursuant to section 552.101. *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.). We note the requestor has a right of access to his private information that is otherwise protected under common-law privacy under section 552.023 of the Government Code. *See* Gov't Code § 552.023(a); ORD 481 at 4. Accordingly, the department may not withhold the requestor's date of birth from him under section 552.101 in conjunction with common-law privacy. However, the department must withhold the public citizens' dates of birth we marked under section 552.101 of the Government Code in conjunction with common-law privacy.


In summary, the department must withhold the submitted video recordings in their entireties and the motor vehicle record information we marked under section 552.130 of the Government Code. The department must withhold the public citizens' dates of birth we

marked under section 552.101 of the Government Code in conjunction with common-law privacy. The department must release the remaining information.<sup>1</sup>

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

Sincerely,



Paige Thompson  
Assistant Attorney General  
Open Records Division

PT/nmd

Ref: ID# 651545

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>1</sup>We note the requestor has a special right of access to some of the information being released in this instance. *See* Gov't Code § 552.023(b) (governmental body may not deny access to person to whom information relates, or that party's representative, solely on grounds that information is considered confidential by privacy principles). Because such information is confidential with respect to the general public, if the department receives another request for this information from a different requestor, then the department should again seek a ruling from this office.