



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 17, 2017

Ms. Mary E. Miller  
Assistant District Attorney  
Denton County Sheriff's Office  
127 North Woodrow Lane, Suite 300  
Denton, Texas 76205

OR2017-08041

Dear Ms. Miller:

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# 653706.

The Denton County Sheriff's Office (the "sheriff's office") received a request for thirteen categories of information pertaining to a specified motor vehicle accident. You state the sheriff's office does not have information responsive to portions of the request.<sup>1</sup> You state the sheriff's office will release some information to the requestor, and that the sheriff's office has redacted certain information pursuant to section 552.130(c) of the Government Code.<sup>2</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.

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<sup>1</sup>The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990).

<sup>2</sup> Section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 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).

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.). However, we note the requestor has a right of access to her client’s date of birth pursuant to section 552.023 of the Government Code. *See* Gov’t Code § 552.023(a) (governmental body may not deny access to person to whom information relates or person’s agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Thus, with the exception of the requestor’s client’s date of birth, the sheriff’s office must withhold all public citizens’ dates of birth under section 552.101 of the Government Code.

Section 552.130 excepts from disclosure 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. We note the purpose of section 552.130 is to protect the privacy interests of individuals. As noted above, the requestor has a right of access to her client’s motor vehicle record information under section 552.023 of the Government Code, and it may not be withheld from her under section 552.130. *See id.* § 552.023(a); ORD 481 at 4. Thus, with the exception of the requestor’s client’s information, which we have marked for release, the sheriff’s office must withhold the motor vehicle record information you marked, and the additional information we marked, under section 552.130 of the Government Code. Additionally, we find the submitted video recordings contain confidential motor vehicle record information. In this instance, you state the sheriff’s office does not possess the technological capability to redact information from the video recordings. Thus, the sheriff’s office must withhold the submitted video recordings in their entirety under section 552.130 of the Government Code.<sup>3</sup> *See* Open Records Decision No. 364 (1983).

In summary, with the exception of the requestor’s client’s date of birth, the sheriff’s office must withhold all public citizens’ dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy. With the exception of the requestor’s client’s information, which we have marked for release, the sheriff’s office must withhold the motor vehicle record information you marked, the additional information we marked, and

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<sup>3</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

the submitted video recordings in their entireties under section 552.130 of the Government Code. The sheriff's office 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 [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,



Kieran Hillis  
Assistant Attorney General  
Open Records Division

KH/sb

Ref: ID# 653706

Enc. Submitted documents

c: Requestor  
(w/o enclosures)