



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 17, 2017

Ms. Julie Pandya Doshier
Counsel for the City of Hutchins
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
500 North Akard Suite 1800
Dallas, Texas 75201

OR2017-08082

Dear Ms. Doshier:

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# 654796 (File Reference No. 83757).

The City of DeSoto (the "city"), which you represent, received a request for transcripts and audio recordings relating to three categories of information for designated time periods, a log of all dispatched calls during a designated time period, and reports of a specified crime pertaining to a specified type of vehicle during a designated time period. You state the city released some information. 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 representative sample of information.¹

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

¹We assume the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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. You seek to withhold the submitted audio recordings in their entirety because you state the city does not possess the technological capability to redact information from audio files. However, because the city had the ability to copy the submitted audio recordings in order to submit them for our review, we believe the city has the capability to produce a copy of only the non-confidential portions of the audio recordings. Accordingly, the city must withhold the information it marked and the audible motor vehicle record information in the audio recordings under section 552.130 of the Government Code.

The city asserts some of the remaining information consists of dates of birth that are excepted from public disclosure under section 552.101 of the Government Code in conjunction with common-law privacy. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 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.). Thus, the city must withhold the public citizen's date of birth it marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find the audio recordings do not contain an audible date of birth. Therefore, the city may not withhold any remaining portion of the audio recordings under section 552.101 in conjunction with common-law privacy.

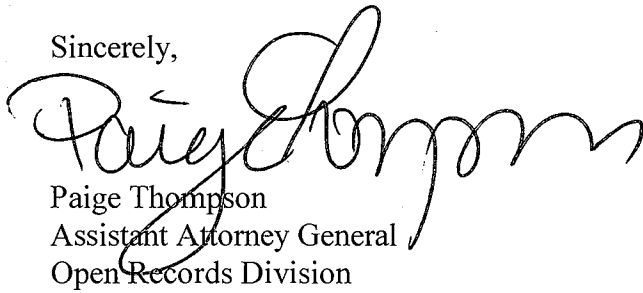
In summary, the city must withhold the information it marked and the audible motor vehicle record information in the audio recordings under section 552.130 of the Government Code. The city must withhold the public citizen's date of birth it marked under section 552.101 of the Government Code in conjunction with common-law privacy. The city 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, 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 "Paige Thompson". The signature is written in a cursive, flowing style with a large initial "P".

Paige Thompson
Assistant Attorney General
Open Records Division

PT/nmd

Ref: ID# 654796

Enc. Submitted documents

c: Requestor
(w/o enclosures)