



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 11, 2017

Mr. Andrew Wipke  
Assistant District Attorney  
Lubbock County  
904 Broadway, Second Floor  
Lubbock, Texas 79401

OR2017-10275

Dear Mr. Wipke:

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# 657575 (ORR. 212).

The Lubbock County Sheriff's Office (the "sheriff's office") received a request for call sheets and reports for specified incidents pertaining to a specified address. You claim portions of the submitted information are excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.147 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 other statutes, such as 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 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). You state the sheriff's office is part of an emergency communication district that is subject to section 772.318 of the Health and Safety Code. Accordingly, the sheriff's office must withhold the information you marked under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code if they consist of originating telephone numbers and addresses furnished by a 9-1-1 service supplier. If the

marked information does not consist of originating telephone numbers and addresses provided by a 9-1-1 service supplier, it may not be withheld under section 552.101 in conjunction with section 772.318.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the information you marked concerns a concluded investigation that did not result in a conviction or deferred adjudication. Based on this representation, we agree section 552.108(a)(2) is applicable to the information you marked.

However, we note section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See* Open Records Decision No. 127 (1976) (summarizing the types of information considered to be basic information). Basic information does not include dates of birth or motor vehicle record information encompassed by section 552.130 of the Government Code. Thus, with the exception of basic information, the sheriff's office may withhold the information you marked under section 552.108(a)(2) of the Government Code.<sup>1</sup>

The sheriff's office asserts a date of birth in the remaining information is excepted from public disclosure under section 552.101 of the Government Code in conjunction with common-law privacy. Section 552.101 also 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 sheriff's office must withhold the public citizen's date of birth you marked in the remaining information under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the sheriff's office must withhold the information you marked under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code if it consists of the originating telephone numbers and addresses furnished

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<sup>1</sup>As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.

by a 9-1-1 service supplier. With the exception of basic information, the sheriff's office may withhold the information it marked under section 552.108(a)(2) of the Government Code. The sheriff's office must withhold the public citizen's date of birth under section 552.101 of the Government Code in conjunction with common-law privacy. The remaining information must be released.<sup>2</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,



D. Michelle Case  
Assistant Attorney General  
Open Records Division

DMC/eb

Ref: ID# 657575

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>We note the requestor has a right of access to some of the information being released. *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, if the sheriff's office receives another request for the same information from a different requestor, the sheriff's office must again seek a decision from this office.