



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 22, 2017

Ms. Amanda Pell
Open Records Specialist
Baytown Police Department
3200 North Main Street
Baytown, Texas 77521

OR2017-11087

Dear Ms. Pell:

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# 658576 (Request # 8304).

The Baytown Police Department (the "department") received a request for video recordings pertaining to a specified incident. You state the department will release some of the requested information upon payment of costs. 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.

Initially, although you assert a portion of the submitted information, which you have indicated, is not responsive to the instant request, we note this information consists of a video recording pertaining to the specified incident. Upon review, we find the information you have indicated is responsive to the request for information. Accordingly, we will consider your arguments against disclosure of the information at issue.

The department asserts the dates of birth are excepted from public disclosure under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.101 exempts 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.). Upon review, we find the video recordings we have indicated contain public citizens’ dates of birth. In this instance, you state the department does not possess the technological capability to redact information from video recordings. Thus, we agree the department must withhold the entireties of the video recordings we have indicated under section 552.101 of the Government Code in conjunction with common-law privacy.¹ *See* Open Records Decision No. 364 (1983).

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 the video recording we have indicated contains motor vehicle record information. As previously noted, you state the department lacks the technological capability to redact the confidential information in the video recording at issue. Accordingly, the department must withhold the video recording we indicated in its entirety under section 552.130 of the Government Code. *See* ORD 364.

In summary, the department must withhold the video recordings we have indicated in their entireties under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the video recording we indicated in its entirety under section 552.130 of the Government Code. The remaining video recordings must be released.

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

¹As our ruling is dispositive on this information, we need not address your remaining argument against its disclosure.

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

Sincerely,



Jennifer Copeland
Assistant Attorney General
Open Records Division

JC/sb

Ref: ID# 658576

Enc. Submitted documents

c: Requestor
(w/o enclosures)