



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 26, 2017

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

OR2017-16735

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# 672464 (ORR# 8982).

The Baytown Police Department (the "department") received a request for case number 1712234. The department states it has released some of the requested information. The department claims the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions the department claims and reviewed the submitted information.

Section 552.101 of the Government Code excepts "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, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). The Third Court of Appeals has concluded public citizens' dates of birth are protected by common-law privacy pursuant to section 552.101. *See 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.). The department argues some of the submitted video recordings, which it noted, contain dates of birth of public citizens. Upon review, we find some of the recordings at issue contain dates of birth and other information that satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Thus, the department must generally withhold this information under section 552.101 of the Government Code in conjunction with common-law privacy.

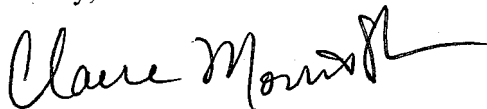
Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130. The department argues the remaining video recordings contain confidential motor vehicle record information. Upon review, we find the remaining recordings contain motor vehicle record information that is confidential under section 552.130 of the Government Code. Thus, the department must generally withhold the motor vehicle record information within the remaining video recordings under section 552.130 of the Government Code.

In this instance, the department states it does not possess the technological capability to redact information from video files. Thus, we find the department must withhold the submitted video recordings in their entireties under section 552.101 of the Government Code in conjunction with common-law privacy and under section 552.130 of the Government Code. *See* Open Records Decision No. 364 (1983).

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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 672464

Enc. Submitted documents

c: Requestor
(w/o enclosures)