



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 18, 2017

Ms. Stephanie H. Harris  
City of Attorney  
City of Paris  
P.O. Box 9037  
Paris, Texas 75461-9037

OR2017-18901

Dear Ms. Harris:

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# 671520.

The Paris Police Department (the "department") received a request for information pertaining to a specified automobile accident. You state the department has released some information. You claim portions of the submitted information are 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.

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 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.). However, we note the requestor has a right of access to her own private information pursuant to section 552.023 of the Government Code, and the department may not withhold that information from the requestor under section 552.101 of the Government Code in conjunction with common-law privacy. *See* Gov't Code § 552.023(a) (“person’s authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and that is protected from public disclosure by laws intended to protect that person’s privacy interests”); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). Upon review, we find a portion of the submitted information satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the department must withhold all public citizens’ dates of birth that do not belong to the requestor and the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find the department has not demonstrated any of the remaining information at issue is highly intimate or embarrassing and not of legitimate public concern. Thus, the department may not withhold any portion of the remaining information under section 552.101 in conjunction with common-law privacy.

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. Accordingly, except for the information we marked for release, the department must withhold the motor vehicle record information you marked, and the additional information we marked, under section 552.130 of the Government Code. Upon review, we find one of the submitted audio recordings and the submitted audiovisual recordings contain confidential motor vehicle record information. You state the department does not possess the technological capability to redact information from the submitted recordings. However, because the department had the ability to copy the submitted audio recordings in order to submit them for our review, we believe the department has the capability to produce a copy of only the non-confidential portions of the audio recording at issue. Accordingly, the department must withhold the information we indicated within the audio recording at issue under section 552.130 of the Government Code. Further, the department must withhold the submitted audiovisual recordings in their entirety under section 552.130. *See* Open Records Decision No. 364 (1983). However, we find the remaining information in the submitted recordings does not contain motor vehicle record information. Further, we find the remaining information does not constitute motor vehicle information for purposes of section 552.130 of the Government Code and the department may not withhold any portion of the remaining information on that basis.

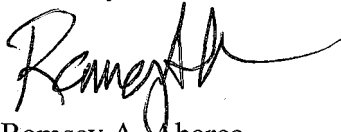
In summary, the department must withhold all public citizens’ dates of birth that do not belong to the requestor and the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. Except for the information we

marked for release, the department must withhold the information you marked, and the information we marked, under section 552.130 of the Government Code. The department must also withhold the information we indicated in the submitted audio recordings, and the submitted audiovisual recordings in their entireties, under section 552.130 of the Government Code. The department 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,



Ramsey A. Abarca  
Assistant Attorney General  
Open Records Division

RAA/tdw

Ref: ID# 671520

Enc. Submitted documents

c: Requestor  
(w/o enclosures)