



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 11, 2017

Mr. Adam Anderson  
Assistant County Attorney  
Montgomery County  
501 North Thompson, Suite 300  
Conroe, Texas 77301

OR2017-23190

Dear Mr. Anderson:

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# 679399 (ORR No. 17PIA359).

The Montgomery County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a specified incident. You claim some of the submitted information is excepted from disclosure under section 552.130 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

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. We note the requestor has a right of access to her motor vehicle record information. *Id.* § 552.023(a) (person or person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the 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 one of the submitted video recordings contains visible motor record vehicle information that does not belong to the requestor. You state the sheriff's office does not have the technological capability to redact this information from the submitted video recording. Accordingly, the sheriff's office must

withhold the video recording we have indicated in its entirety under section 552.130 of the Government Code. However, you have failed to demonstrate any of the remaining information at issue is subject to section 552.130. Thus, the sheriff's office may not withhold any of the remaining information at issue under section 552.130 of the Government Code.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."<sup>1</sup> 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.). We note the requestor has a right of access to her own date of birth. *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); ORD 481 at 4. Upon review, we find the remaining video recording contains a public citizen's date of birth, and the audio portion is intertwined with the video portion of the recording. As stated above, you inform us the sheriff's office lacks the technological capability to redact the information from the video recording. Based on this representation, we find the sheriff's office must withhold the remaining video recording in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy. Further, with the exception of the requestor's date of birth, the sheriff's office must withhold all public citizens' dates of birth 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 video recording we have indicated in its entirety under section 552.130 of the Government Code. The sheriff's office must withhold the remaining video recording in its entirety and, with the exception of the requestor's date of birth, all public citizens' dates of birth in the remaining information under section 552.101 of the Government Code in conjunction with common-law privacy. The sheriff's office must release the remaining information.

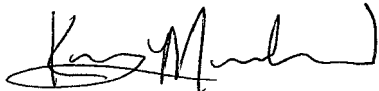
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,



Kenny Moreland  
Assistant Attorney General  
Open Records Division

KJM/gw

Ref: ID# 679399

Enc. Submitted documents

c: Requestor  
(w/o enclosures)