



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 15, 2019

Mr. Thomas Gilliland
Public Information Officer
Harris County Sheriff's Office
1200 Baker Street, 2ND Floor
Houston, Texas 77002

OR2019-01249

Dear Mr. Gilliland:

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# 746284 (HCSO File No. 18SO6001749).

The Harris County Sheriff's Office (the "sheriff's office") received a request for a specified police report. You claim the submitted information is excepted from disclosure under section 552.152 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.152 of the Government Code provides the following:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Gov't Code § 552.152. The sheriff's office represents release of the submitted information that identifies undercover officers would subject the officers to a "substantial threat of physical harm." Upon review, we find the sheriff's office has demonstrated release of the information at issue, which consists of the undercover officers' names, identification numbers, and office telephone numbers, would subject the officers to a substantial threat of

physical harm. Therefore, we conclude the sheriff's office must withhold the identifying information of the undercover officers under section 552.152 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."¹ 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 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.). Thus, the sheriff's office must withhold all public citizens' dates of birth under section 552.101 of the Government Code 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. The sheriff's office must withhold the motor vehicle record information we marked under section 552.130 of the Government Code.

In summary, the sheriff's office must withhold the identifying information of the undercover officers under section 552.152 of the Government Code. The sheriff's office must withhold all public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy. The sheriff's office must withhold the motor vehicle record information we marked under section 552.130 of the Government Code. 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.

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

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

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

Sincerely,

A handwritten signature in black ink, appearing to read "D. Michelle Case", with a long horizontal flourish extending to the right.

D. Michelle Case
Assistant Attorney General
Open Records Division

DMC/eb

Ref: ID# 746284

Enc. Submitted documents

c: Requestor
(w/o enclosures)