



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 7, 2019

Ms. Judith El Masri
Counsel for the City of Angleton
Randle Law Office L.T.D., L.L.P.
Memorial City Plaza II
820 Gessner, Suite 1570
Houston, Texas 77024-4494

OR2019-03683

Dear Ms. Masri:

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# 749344.

The Angleton Police Department (the "department"), which you represent, received a request for information pertaining to a specified incident. You state you have released some information. You claim 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 Codes 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 some of the submitted audio recordings contain motor vehicle record information. You state the department does not have the technical capability to redact the motor vehicle record

information from the recordings. However, because the department had the ability to copy the submitted audio recordings for our review, we believe the department has the capability to produce copies of only the non-confidential portions of the audio recordings. Therefore, the department must withhold the motor vehicle record information we indicated in the submitted audio recordings under section 552.130 of the Government Code. However, we find the remaining audio recordings do not contain discernible motor vehicle record information. Accordingly, the remaining audio recordings may not be withheld under section 552.130 of the Government Code.

Section 552.101 of the Government Code excepts “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, 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). 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.). Thus, the department must withhold all public citizens’ dates of birth in the submitted audio recordings under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the department must withhold the motor vehicle record information we indicated in the submitted audio recordings under section 552.130 of the Government Code. The department must withhold all public citizens’ dates of birth in the submitted audio recordings under section 552.101 of the Government Code in conjunction with common-law privacy. 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, 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 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).

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/mo

Ref: ID# 749344

Enc. Submitted documents

c: Requestor
(w/o enclosures)