



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 25, 2019

Mr. Ryan D. Pittman
Counsel for the City of Wylie
Abernathy, Roeder, Boyd & Hullett
P.O. Box 1210
McKinney, Texas 75069-1210

OR2019-08127

Dear Mr. Pittman:

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# 764110.

The Wylie Police Department (the "department"), which you represent, received a request for fourteen categories of information related to a specified automotive accident. You state you have released some information to the requestor. You claim the submitted information is 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 552.130 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. We note section 552.130 protects personal privacy. Accordingly, the requestor has a right of access to her client's own motor vehicle record information under section 552.023 of the Government Code and it may not be withheld from her under section 552.130. *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); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Upon review, we find the submitted video recordings contain motor vehicle record information that does not belong to the requestor's client. In this instance, you state

the department does not possess the technological capability to redact information from video files. Accordingly, the department must withhold the submitted video recordings in their entireties under section 552.130 of the Government Code.¹ *See* Open Records Decision No. 364 (1983). Further, we note some of the remaining information is subject to section 552.130. We note some of the motor vehicle record information at issue may belong to the requestor's client, and, as such, the requestor may have a right of access to such information. *See* Gov't Code § 552.023(a); ORD 481 at 4. However, because we are unable to determine whether the information at issue belongs to the requestor's client, we must rule conditionally. To the extent the motor vehicle record information we have marked belongs to the requestor's client, the department must release it under section 552.023 of the Government Code. To the extent the motor vehicle record information we have marked does not belong to the requestor's client, the department must withhold it under section 552.130 of the Government Code.²

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section 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 client's date of birth pursuant to section 552.023 of the Government Code and it may not be withheld from her on the basis of common-law privacy. *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); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Thus, with the exception of the requestor's client's date of birth, the department must withhold all public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the department must withhold the submitted video recordings in their entireties under section 552.130 of the Government Code. To the extent the motor vehicle record information we have marked does not belong to the requestor's client, the department must withhold it under section 552.130 of the Government Code. With the exception of the

¹As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

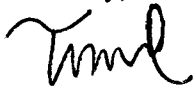
²As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

requestor's client's date of birth, the department must withhold all public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy. The department must release the remaining information to this requestor.³

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,



Tim Neal
Assistant Attorney General
Open Records Division

TN/jxd

Ref: ID# 764110

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³We note the requestor has a special right of access to some information being released in this instance. See Gov't Code § 552.023(a); ORD 481 at 4. Accordingly, the department must again seek a decision from this office if it receives another request for the same information from another requestor.