



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 8, 2019

Ms. Linda Haley
Records Supervisor
City of Leander
705 Leander Drive
Leander, Texas 78641

OR2019-09425

Dear Ms. Haley:

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# 758367.

The Leander Police Department (the "department") received a request for information pertaining to a specified incident. 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 552.130 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. Upon review, we find portions of the submitted information consist of motor vehicle record information. We note section 552.130 protects personal privacy. Section 552.023(a) of the Government Code states "a person . . . 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." *Id.* § 552.023(a); *see* Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Accordingly, the requestor has a right of access to his motor vehicle record information pursuant to

section 552.023 of the Government Code and it may not be withheld from him under section 552.130. We note some of the submitted video recordings contain motor vehicle record information subject to section 552.130 that does not relate to the requestor. You state the department does not have the technological capability to redact this motor vehicle record information from the recordings. Accordingly, with the exception of the video recordings we marked for release, we conclude the department must withhold the remaining video recordings in their entirety and the motor vehicle record information we marked under section 552.130 of the Government Code. However, we find the remaining information does not contain motor vehicle record information subject to section 552.130 of the Government Code. Accordingly, the department may not withhold any portion of the remaining information 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.” 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.). We note the requestor has a right of access to his own date of birth and this information may not be withheld from him under common-law privacy. *See* Gov’t Code § 552.023(a); ORD 481 at 4. Accordingly, with the exception of the requestor’s date of birth, the department must withhold the remaining public citizens’ dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find no portion of the remaining information is highly intimate or embarrassing and of no legitimate public concern, and the department may not withhold any of the remaining information under section 552.101 of the Government Code on the basis of common-law privacy.

In summary, with the exception of the video recordings we marked for release, the department must withhold the remaining video recordings in their entirety and the motor vehicle record information we marked under section 552.130 of the Government Code. With the exception of the requestor’s date of birth, the department must withhold the remaining 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.

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,



Deborah Southerland
Attorney
Open Records Division

DS/eb

Ref: ID# 758367

Enc. Submitted documents

c: Requestor
(w/o enclosures)