



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 29, 2019

Mr. Ryan D. Pittman
Counsel for Wylie
Abernathy, Roeder, Boyd & Hullett
1700 Redbud Boulevard, Suite 300
McKinney, Texas 75069

OR2019-11306

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# 762398 (Ref. No. 100148).

The Wylie Police Department (the "department"), which you represent, received a request for information pertaining to a specified incident. You claim some of 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 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. Thus, the requestor has a right of access to her client's 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 id. § 552.023(a)* ("person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to 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). Accordingly, the department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. You also assert, and we agree, the submitted video recordings contain confidential motor vehicle record information not belonging to the requestor's client that is excepted from disclosure under section 552.130. In this instance, you state the department does not possess the technological capability to redact information from the video files. Thus, we agree the department must withhold the entireties of the submitted video recordings under section 552.130 of the Government Code.¹ See Open Records Decision No. 364 (1983).

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.). Therefore, with the exception of the date of birth of the requestor's client, to which the requestor has a right of access pursuant to section 552.023 of the Government Code, the department must withhold all public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy. See Gov't Code § 552.023(a); ORD at 4. However, we find you have failed to demonstrate the remaining information is highly intimate or embarrassing and not of legitimate public concern. Therefore, department may not withhold any of the remaining information under section 552.101 on that basis.

In summary, the department must withhold the motor vehicle record information we have marked and the submitted video recordings in their entireties under section 552.130 of the Government Code. With the exception of the date of birth of the requestor's client, 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.²

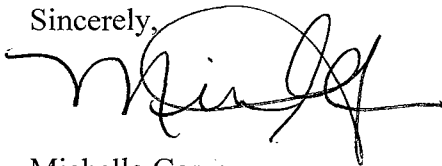
¹As our ruling is dispositive for this information, we need not address your remaining argument against its disclosure.

²As noted above, the requestor has a special right of access to some of the information being released in this instance. See Gov't Code § 552.023(a); ORD 481 at 4. Because such information is confidential with respect to the general public, if the department receives another request for this information from a different requestor, the department must again seek a ruling from this office.

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,

A handwritten signature in black ink, appearing to read "Michelle Garza", written over a circular stamp or mark.

Michelle Garza
Assistant Attorney General
Open Records Division

MG/mo

Ref: ID# 762398

Enc. Submitted documents

c: Requestor
(w/o enclosures)