



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 22, 2019

Ms. Cary D. Kirby
County Attorney
Angelina County
P.O. Box 1845
Lufkin, Texas 75902-1845

OR2019-13664

Dear Ms. Kirby:

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# 766732.

The Angelina County Attorney's Office (the "county attorney's office") received a request for three categories of information pertaining to a named individual and specified case. You state you will release some information to the requestor. You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.130, and 5552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

The county attorney's office asserts the dates of birth in the information at issue are excepted from public disclosure under section 552.101 of the Government Code in conjunction with common-law privacy. 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 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

county attorney's office must withhold the public citizens' dates of birth it marked 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.¹ *See* Gov't Code § 552.130. Accordingly, the county attorney's office must withhold the motor vehicle record information it marked under section 552.130 of the Government Code.

Section 552.137 of the Government Code excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body" unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See id.* § 552.137(a)-(c). The e-mail addresses at issue are not excluded by subsection (c). Therefore, the county attorney's office must withhold the personal e-mail addresses it marked and the additional e-mail address we marked under section 552.137 of the Government Code, unless the owners affirmatively consents to public disclosure.²

In summary, the county attorney's office must withhold the public citizens' dates of birth it marked under section 552.101 of the Government Code in conjunction with common-law privacy. The county attorney's office must withhold the motor vehicle record information it marked under section 552.130 of the Government Code. The county attorney's office must withhold the personal e-mail addresses it marked and the additional e-mail address we marked under section 552.137 of the Government Code, unless the owners affirmatively consents to public disclosure. The county attorney'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/>

¹Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

²We note Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain information, including an e-mail address of a member of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

[ori_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 "Lecelle Clarke". The signature is fluid and cursive, with the first name "Lecelle" written in a larger, more prominent script than the last name "Clarke".

Lecelle Clarke
Attorney
Open Records Division

LC/gw

Ref: ID# 766732

Enc. Submitted documents

c: Requestor
(w/o enclosures)