



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 17, 2019

Mr. Fernando C. Gomez
Vice Chancellor and General Counsel
The Texas State University System
601 Colorado Street
Austin, Texas 78701-2904

OR2019-25960

Dear Mr. Gomez:

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# 786068 (File No. 19032.23).

Texas State University (the "university") received a request for information regarding a specified vehicle accident involving the requestor's client.¹ You state the university has released some information. You claim the submitted information is excepted from disclosure under sections 552.101, 552.1175, and 552.130 of the Government Code.² We have considered the exceptions you claim and reviewed the submitted information.

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

¹You state the university sought and received clarification of the information requested. See Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); see also *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

²Although you raise section 552.117 of the Government Code, we note section 552.1175 of the Government Code is the proper exception to raise for information not held in an employment context.

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.).

Although you assert the university does not possess the technological capability to redact information from the submitted video recording, we understand the university has the capability to produce a copy of only the non-confidential portions of the video recording. Accordingly, with the exception of the requestor's client's date of birth, to which the requestor has a right of access pursuant to section 552.023 of the Government Code, the university 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)* ("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).

Section 552.1175 of the Government Code provides in part:

(a) This section applies only to:

(1) peace officers as defined by Article 2.12, Code of Criminal Procedure[.]

(b) Information that relates to the home address, home telephone number, emergency contact information, date of birth, or social security number of an individual to whom this section applies, or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

(1) chooses to restrict public access to the information; and

(2) notifies the governmental body of the individual's choice on a form provided by the governmental body, accompanied by evidence of the individual's status.

Gov't Code § 552.1175(a)(1), (b). Some of the remaining information, which we indicated, relates to an officer of the university but the information is not held by the university in an employment capacity. Accordingly, to the extent the officer at issue elects to restrict access to his information in accordance with section 552.1175(b), the university must withhold the information we indicated under section 552.1175 of the Government Code. Conversely, if the officer at issue does not elect to restrict access to his information in accordance with section 552.1175(b), the information pertaining to that officer may not be withheld under section 552.1175.

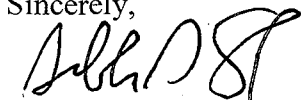
Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See id.* § 552.130. We note, because section 552.130 protects privacy interests, the requestor has a right of access to his client's motor vehicle record information pursuant to section 552.023 of the Government Code. *See id.* § 552.023(a); ORD 481 at 4. Accordingly, the university must withhold the information we indicated under section 552.130 of the Government Code.

In summary, with the exception of the requestor's client's date of birth, the university must withhold all public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy. To the extent the officer at issue elects to restrict access to his information in accordance with section 552.1175(b) of the Government Code, the university must withhold the information we indicated under section 552.1175 of the Government Code. The university must withhold the information we indicated under section 552.130 of the Government Code. The university 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Deborah Southerland
Attorney
Open Records Division

DS/jxd

Ref: ID# 786068

Enc. Submitted documents

c: Requestor
(w/o enclosures)