



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 4, 2019

Ms. Alma Lazdowski
FOIA Clerk
Pflugerville Police Department
P.O. Box 679
Pflugerville, Texas 78691

OR2019-27930

Dear Ms. Lazdowski:

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# 789522 (Ref. No. W008591-072419).

The Pflugerville Police Department (the "department") received a request for information pertaining to calls for service at a specified address and information pertaining to a specified incident. You state the department has released some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the submitted information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2019-04967 (2019). In that ruling, we determined the department: (1) must withhold the information we marked and all dates of birth not belonging to the requestor or her minor child under section 552.101 of the Government Code in conjunction with common-law privacy; (2) with the exception of the information pertaining to the requestor, must withhold the motor vehicle record information you redacted and we marked under section 552.130 of the Government Code; and (3) must release the remaining information. We note the circumstances have changed for a portion of the submitted information that was released to the previous requestor because the instant requestor does not have a right of access to such information. *See* Gov't Code § 552.023(a) (person or person's authorized representative has a special right of access to information held by governmental body that relates to person and that is protected from public disclosure by laws intended to protect person's privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). Thus, the department may not

rely on Open Records Letter No. 2019-04967 as a previous determination for this information. However, we have no indication there has been a change in the law, facts, or circumstances for the remainder of the submitted information in Open Records Letter No. 2019-04967. Accordingly, we conclude the department must continue to rely on Open Records Letter No. 2019-04967 as a previous determination with respect to the information we indicated and withhold the identical information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). We will address your submitted argument against disclosure of the remaining 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. 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.). Accordingly, the department must withhold all dates of birth of public citizens under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code excepts from public disclosure information relating to a motor vehicle operator’s or driver’s license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country.¹ *See* Gov’t Code § 552.130. Accordingly, the department must withhold the motor vehicle record information we marked under section 552.130 of the Government Code.

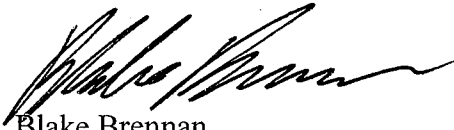
In summary, the department must rely on Open Records Letter No. 2019-04967 as a previous determination with respect to the information we indicated and withhold the identical information in accordance with that ruling. The department must withhold the dates of birth of public citizens under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the motor vehicle record information we marked under section 552.130 of the Government Code. 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.

¹ The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481, 480 (1987), 470 (1987).

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,



Blake Brennan
Assistant Attorney General
Open Records Division

BBX/gw

Ref: ID# 789522

Enc. Submitted documents

c: Requestor
(w/o enclosures)