



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 31, 2019

Ms. Mary E. Miller  
Assistant District Attorney  
Denton County Sheriff's Office  
127 North Woodrow Lane, Suite 300  
Denton, Texas 76205

OR2019-30819

Dear Ms. Miller:

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# 794521 (Request S002280-081919).

The Denton County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a specified incident. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code.<sup>1</sup> 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. This section encompasses the informer's privilege, which has long been recognized by Texas courts. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969); *Hawthorne v. State*, 10 S.W.2d 724, 725 (Tex. Crim. App. 1928). The informer's privilege protects from disclosure the identities of persons who report activities over which the governmental body has criminal or quasi-criminal law-enforcement authority, provided the subject of the information does not already know the informer's identity. *See Open Records Decision No. 208 at 1-2 (1978)*. The informer's privilege protects the identities of individuals who report violations of statutes to the police or similar law-enforcement agencies, as well as those who report violations of statutes with civil or criminal penalties to "administrative officials having a duty of inspection or of law enforcement within their

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<sup>1</sup> Although you do not assert section 552.130 in your brief, we understand you assert this exception based on your markings.

particular spheres.” Open Records Decision No. 279 at 1-2 (1981) (citing 8 John H. Wigmore, *Evidence in Trials at Common Law*, § 2374, at 767 (J. McNaughton rev. ed. 1961)). The report must be of a violation of a criminal or civil statute. See Open Records Decision Nos. 582 at 2 (1990), 515 at 4 (1988).

You state some of the submitted information reveals the identity of an individual who made reports of possible violations of law to the sheriff’s office. Upon review, we conclude you demonstrated the applicability of the common-law informer’s privilege to most of the information you marked. Therefore, with the exception of the information we marked for release, the sheriff’s office may withhold the information you marked under section 552.101 of the Government Code in conjunction with the common-law informer’s privilege. However, we find you failed to demonstrate the information we marked for release identifies an individual who reported a criminal violation to the sheriff’s office for purposes of the informer’s privilege. Accordingly, the sheriff’s office may not withhold the information we marked for release under section 552.101 on that basis.

Section 552.101 of the Government Code also 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 sheriff’s office must withhold the date of birth you marked under section 552.101 of the Government Code in conjunction with common-law privacy.

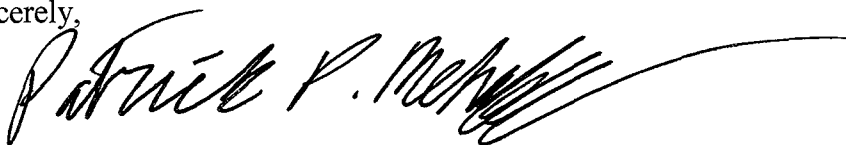
Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title or registration, or a personal identification document issued by an agency of this state or another state or country is excepted from public release. Gov’t Code § 552.130. We note section 552.130 protects privacy interests. Thus, the requestor has a right of access to her own motor vehicle record information. See *id.* § 552.023(a) (person or person’s authorized representative 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); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). In this instance, the requestor may have a right of access to some of the motor vehicle record information at issue under section 552.023 of the Government Code. However, because we are unable to determine whether the information at issue belongs to the requestor, we rule conditionally. To the extent the motor vehicle record information you marked belongs to the requestor, she has a right of access under section 552.023 to this information, and the sheriff’s office may not withhold the information at issue under section 552.130 from the requestor. To the extent the motor vehicle record information you marked does not belong to the requestor, the sheriff’s office must withhold this information under section 552.130 of the Government Code.

In summary, with the exception of the information we marked for release, the sheriff's office may withhold the information you marked under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. The sheriff's office must withhold the date of birth you marked under section 552.101 of the Government Code in conjunction with common-law privacy. To the extent the information at issue does not belong to the requestor, the sheriff's office must withhold the information you marked under section 552.130 of the Government Code. The sheriff's office must release the remaining information.<sup>2</sup>

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,



Patrick P. Mehaffy  
Assistant Attorney General  
Open Records Division

PPM/rm

Ref: ID# 794521

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup> We note the requestor has a right of access to some of the information being released. See Gov't Code § 552.023(a); ORD 481 at 4. Thus, the sheriff's office must again seek a decision from this office if it receives another request for the same information from another requestor.