



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 18, 2019

Ms. Dyanne Hargrove
Paralegal
City of Cedar Park
450 Cypress Road
Cedar Park, Texas 78613

OR2019-35927

Dear Ms. Hargrove:

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# 802297 (Ref. No. 19-1716).

The Cedar Park Police Department (the "department") received a request for information pertaining to a specified incident. You state the department will withhold motor vehicle record information pursuant to section 552.130(c) of the Government Code.¹ You also state the department will release some information to the requestor. You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A); Open Records Decision No. 434 (1986). You assert the information submitted as Exhibit C is excepted from disclosure under section 552.108(a)(2). You state the information at issue pertains to a concluded criminal investigation that did not result in conviction or deferred adjudication. Based on this representation and our review, we agree section 552.108(a)(2) is applicable to the information at issue. Accordingly, the department may withhold Exhibit C under section 552.108(a)(2) of the Government Code.

¹ Section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 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).

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 the dates of birth you marked under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the department: (1) may withhold Exhibit C under section 552.108(a)(2) of the Government Code; (2) must withhold the dates of birth you marked under section 552.101 of the Government Code in conjunction with common-law privacy; and (3) 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,



Blake Brennan
Assistant Attorney General
Open Records Division

BBX/gw

Ref: ID# 802297

Enc. Submitted documents

c: Requestor
(w/o enclosures)