



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 13, 2020

Ms. Amanda Sandhu
Manager
City of North Richland Hills
P.O. Box 820609
North Richland Hills, Texas 76182-0609

OR2020-10783

Dear Ms. Sandhu:

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# 822095 (ORR# 20-0169).

The North Richland Hills Police Department (the "department") received a request for a specified incident report.¹ The department claims some of the submitted information is excepted from disclosure under sections 552.101, 552.130, 552.136, and 552.152 of the Government Code.² We have considered the claimed exceptions 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 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,

¹The department sought and received clarification of the information requested. *See* Gov't Code § 552.222 (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) (if governmental entity, acting in good faith, requests clarification of unclear or over-broad request, ten-day period to request attorney general ruling is measured from date request is clarified).

² We understand the department to raise sections 552.101, 552.130, and 552.136 based on its markings.

2015 WL 3394061, at *3 (Tex. App.—Austin May 22, 2015, pet. denied) (mem. op.). The department must withhold the dates of birth it has 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. *See* Gov't Code § 552.130. The department must withhold the motor vehicle record information it has marked, as well as the information we have marked, under section 552.130 of the Government Code.

Section 552.136(b) of the Government Code provides, “[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” *Id.* § 552.136(b). With the exception of the marked check numbers, the department must withhold the account numbers it has marked under section 552.136 of the Government Code. However, section 552.136 is not applicable to the check numbers, and the department may not withhold them on that ground.

Section 552.152 of the Government Code provides the following:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Id. § 552.152. The department represents release of the submitted information that identifies an undercover officer would subject the officer to a substantial threat of physical harm. Upon review, we find the department has demonstrated release of the information at issue would subject the officer to a substantial threat of physical harm. Therefore, the department must withhold the information it has marked under section 552.152 of the Government Code.

In summary, the department must withhold the following: (1) the dates of birth it has marked under section 552.101 of the Government Code in conjunction with common-law privacy; (2) the information marked under section 552.130 of the Government Code; (3) with the exception of the marked check numbers, the information it has marked under section 552.136; and (4) the information it has marked under section 552.152 of the Government Code. The department must release the remaining information.³

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.

³ Because the requestor has a special right of access to some of the information being released, the department must again seek a decision from this office if it receives another request for the same information from another requestor.

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,

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/mo

Ref: ID# 822095

Enc. Submitted documents

c: Requestor
(w/o enclosures)