



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 12, 2020

Mr. Carlos G. Madrid
Assistant County Attorney
El Paso County Attorney's Office
500 East San Antonio, Room 503
El Paso, Texas 79901

OR2020-15975

Dear Mr. Madrid:

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# 832723 (Reference No. 0243-20-PI).

The El Paso County Sheriff's Office (the "sheriff's office") received a request for two specified video recordings. You state the sheriff's office released information to the requestor, but made redactions as permitted by section 552.130(c) of the Government Code without requesting a decision from this office. Pursuant to section 552.130(d), the requestor has asked this office to review the information redacted by the sheriff's office and render a decision as to whether it is excepted from disclosure under section 552.130(a) of the Government Code. We have considered the sheriff's office's position and reviewed the 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."¹ 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 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

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 (1987), 480 (1987), 470 (1987).

sheriff's office must withhold all public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of this state or another state or country. Gov't Code § 552.130(a). We note section 552.130 protects personal privacy. Accordingly, the requestor has a right of access to his motor vehicle record information under section 552.023 of the Government Code. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). However, because we are unable to determine whether some of the information at issue belongs to the requestor, we must rule conditionally. To the extent the motor vehicle record information we indicated belongs to the requestor, the requestor has a right of access under section 552.023 to this information, and the sheriff's office may not withhold such information under section 552.130 from the requestor. To the extent the motor vehicle record information at issue does not belong to the requestor, the sheriff's office must withhold the motor vehicle record information we indicated under section 552.130 of the Government Code. However, we find the sheriff's office has failed to demonstrate the applicability of section 552.130 to the remaining redacted information. Therefore, the remaining redacted information may not be withheld under section 552.130 of the Government Code.

In summary, the sheriff's office 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 motor vehicle record information at issue does not belong to the requestor, the sheriff's office must withhold the motor vehicle record information we indicated under section 552.130 of the Government Code. The sheriff's office 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,

Jahnna Ward
Assistant Attorney General
Open Records Division

JW/be

Ref: ID# 832723

Enc. Submitted documents

c: Requestor
(w/o enclosures)