



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 28, 2020

Mr. Adam T. Anderson
Assistant County Attorney
Montgomery County
501 North Thompson, Suite 300
Conroe, Texas 77301

OR2020-18695

Dear Mr. Anderson:

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# 839240.

The Montgomery County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a specified incident. The sheriff's office claims some of the submitted information is excepted from disclosure under section 552.130 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

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. Because section 552.130 protects personal privacy, the requestor has a right of access to her own motor vehicle record information pursuant to section 552.023 of the Government Code. *See id.* § 552.023(a) ("person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to 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). The sheriff's office states it lacks the technical capability to redact the information subject to section 552.130 from the video recording. Based on this representation, we agree the sheriff's office must withhold the submitted video recording in its entirety under section 552.130 of the Government Code. The sheriff's office must also withhold the driver's license number and issuing state that do not pertain to the requestor in the remaining information under section 552.130 of the Government Code.

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 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, 2015 WL 3394061, at *3 (Tex. App.—Austin May 22, 2015, pet. denied) (mem. op.). The requestor has a right of access to her own date of birth pursuant to section 552.023 of the Government Code. *See* Gov’t Code § 552.023(a). Nevertheless, the sheriff’s office must withhold the remaining date of birth under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the sheriff’s office must withhold the submitted video recording in its entirety and the driver’s license number and issuing state that do not pertain to the requestor under section 552.130 of the Government Code. The sheriff’s office must also withhold the submitted date of birth that does not pertain to the requestor under section 552.101 of the Government Code in conjunction with common-law privacy. The sheriff’s office must release the remaining information.²

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,

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/rm

¹ The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987).

² Because the requestor has a special right of access to some of the information being released, the sheriff’s office must again seek a decision from this office if it receives another request for the same information from another requestor.

Ref: ID# 839240

Enc. Submitted documents

c: Requestor
(w/o enclosures)