



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 9, 2020

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

OR2020-22687

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# 843246.

The Montgomery County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a specified accident. 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.

We note the submitted information contains a portion of a CR-3 accident report that is subject to chapter 550 of the Transportation Code. Section 550.065 applies only to a written report of an accident required under section 550.061, 550.062, or 601.004. Transp. Code § 550.065(a)(1). Chapter 550 requires the creation of a written report when the accident resulted in injury to or the death of a person or damage to the property of any person to the apparent extent of \$1,000 or more. *Id.* §§ 550.061 (operator's accident report), .062 (officer's accident report). An accident report is privileged and for the confidential use of the Texas Department of Transportation or a local governmental agency of Texas that has use for the information for accident prevention purposes. *Id.* § 550.065(b). However, a governmental entity shall release an accident report in accordance with subsections (c) and (c-1). *Id.* § 550.065(c), (c-1). Section 550.065(c) provides a governmental entity shall release an accident report to a person or entity listed under this subsection. *Id.* § 550.065(c).

The requestor is a person listed under section 550.065(c). Thus, the sheriff's office must release the CR-3 accident report pursuant to section 550.065(c) of the Transportation Code.

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 submitted video recordings contain motor vehicle record information that is subject to section 552.130. The sheriff's office states it lacks the technical capability to redact the information subject to section 552.130 from the video recordings. Based on this representation, we agree the sheriff's office must withhold the submitted video recordings in their entirety under section 552.130 of the Government Code. The sheriff's office must also withhold the license plate and driver's license numbers and issuing state that do not pertain to the requestor's client 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 *Id.* § 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 sheriff's office must withhold the date of birth in the remaining information under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the sheriff's office must release the CR-3 accident report pursuant to section 550.065(c) of the Transportation Code. The sheriff's office must withhold the submitted video recordings in their entirety and the license plate and driver's license numbers and issuing state that do not pertain to the requestor's client in the remaining information under section 552.130 of the Government Code. The sheriff's office must also withhold the date of birth in the remaining information under section 552.101 of the Government Code in conjunction with common-law privacy. 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.

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).

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/jxd

Ref: ID# 843246

Enc. Submitted documents

c: Requestor
(w/o enclosures)