KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 5, 2020

Mr. Adam Anderson
Assistant County Attorney
Montgomery County Attorney's Office
501 North Thompson Street, Suite 300
Conroe, Texas 77301

OR2020-27779

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# 852717 (ORR# 20PIA294).

The Montgomery County Sheriff's Office (the "sheriff's office") received a request for all information related to a specified automotive accident. You claim a portion of the submitted information is excepted from disclosure under section 552.130 of the Government Code. We have considered the exception you claim 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. We note section 552.130 protects personal privacy. Accordingly, the requestor has a right of access to his client's motor vehicle record information under section 552.023 of the Government Code and it may not be withheld from her under section 552.130. *See id.* § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Upon review, we find the motor vehicle record information we have marked is subject to section 552.130 of the Government Code. Therefore, the sheriff's office must withhold the motor vehicle record information we have marked to the extent it does not belong to the requestor's client under section 552.130 of the Government Code. Additionally, you assert, and we agree, the submitted video recording contains confidential

motor vehicle record information not belonging to the requestor's client that is excepted from disclosure under section 552.130. In this instance, you state the sheriff's office does not possess the technological capability to redact information from video files. Thus, the sheriff's office must also withhold the submitted video recording in its entirety under section 552.130 of the Government Code. *See* Open Records Decision No. 364 (1983).

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. 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 sheriff's office must withhold the public citizen's 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 withhold the motor vehicle record information we have marked to the extent it does not belong to the requestor's client under section 552.130 of the Government Code. 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 withhold the public citizen's 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 to this requestor.[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

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

[2] As noted above, the requestor may have a right of access to certain information pertaining to his client pursuant to section 552.023 of the Government Code. *See* Gov't Code § 552.023(a); ORD 481 at 4. To the extent the requestor in this case has such a right of access and the sheriff's office receives another request for this information from an individual without such a right of access, we note 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).

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,

Tim Neal
Assistant Attorney General
Open Records Division

TN/jm

Ref: ID# 852717

Enc. Submitted documents

c: Requestor
(w/o enclosures)