



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 28, 2022

Mr. Jason Sorensen  
Assistant Kerr County Attorney  
Kerr County Attorney's Office  
700 Main Street, Suite BA-103  
Kerrville, Texas 78028

OR2022-12140

Dear Mr. Sorensen:

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# 944004.

Kerr County (the "county") received a request for information pertaining to a specified accident.<sup>1</sup> The county claims 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 representative sample of information.<sup>2</sup>

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

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<sup>1</sup>The county 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).

<sup>2</sup> We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

contain motor vehicle record information that is subject to section 552.130. The county informs us the responsive audio recordings also contain motor vehicle record information. The county states it lacks the technical capability to redact the information subject to section 552.130 from the recordings at issue. Based on this representation, we agree the county must withhold the submitted video recordings in their entireties under section 552.130 of the Government Code. However, because the county had the ability to copy the requested audio recording, we believe the county has the capacity to produce a copy of only the non-confidential portions of it. Therefore, the county may not withhold the audio recordings in their entireties under section 552.130. Nevertheless, the county must withhold the license plate and vehicle identification numbers and issuing state in the remaining responsive 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.”<sup>3</sup> *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 county must withhold the submitted dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the county must withhold the following: (1) the submitted video recordings in their entireties under section 552.130 of the Government Code; (2) the license plate and vehicle identification numbers and issuing state in the remaining responsive information under section 552.130 of the Government Code; and (3) the submitted dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy. The county 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

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<sup>3</sup> 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).

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/be

Ref: ID# 944004

Enc. Submitted documents

c: Requestor  
(w/o enclosures)