



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 27, 2022

Mr. James Santangelo
Assistant City Attorney
City of Missouri City
1522 Texas Parkway
Missouri City, Texas 77489

OR2022-18315

Dear Mr. Santangelo:

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# 955595 (City ID# MCAG 22-26).

The Missouri City Police Department (the "department") received a request for information pertaining to a specified incident. You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy. 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. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). 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.). In addition, we note the requestor has a right of access to his client's date of birth pursuant to section 552.023 of the Government Code and that information may not be withheld from the requestor under section 552.101 on the basis of common-law privacy. *See* Gov't Code § 552.023(a)

¹ We note the department did not comply with the procedural requirements of section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b). Nonetheless, because sections 552.101 and 552.130 of the Government Code can provide compelling reasons to overcome the presumption of openness, we will consider their applicability to the submitted information. *See id.* §§ 552.007, .302, .352.
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(“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 Record Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). Thus, with the exception of the date of the birth belonging to the requestor’s client, the department must withhold all public citizens’ dates of birth you marked under section 552.101 of the Government Code in conjunction with common-law privacy.

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); ORD 481 at 4. Thus, with the exception of the motor vehicle record information belonging to the requestor’s client, the department must withhold the motor vehicle record information you marked and indicated under section 552.130 of the Government Code.

In summary, with the exception of the date of the birth belonging to the requestor’s client, the department must withhold all public citizens’ dates of birth you marked under section 552.101 of the Government Code in conjunction with common-law privacy. With the exception of the motor vehicle record information belonging to the requestor’s client, the department must withhold the motor vehicle record information you marked and indicated under section 552.130 of the Government Code. The department 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,

Pearlie Gault
Assistant Attorney General
Open Records Division

PG/jm

² We note the requestor has a right of access to some of the information being released. *See* Gov’t Code § 552.023(a); ORD 481 at 4. Thus, if the department receives another request for the same information from a different requestor, the department must again seek a decision from this office.

Ref: ID# 955595

Enc. Submitted documents

c: Requestor
(w/o enclosures)