



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 13, 2022

Mr. James M. Yakovsky
Assistant County Attorney
Angelina County
P.O. Box 1845
Lufkin, Texas 75902-1845

OR2022-38546

Dear Mr. Yakovsky:

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# 989448.

The Angelina County Sheriff's Office (the "sheriff's office") received a request for a certain search warrant affidavit. You claim portions of the submitted information are excepted from disclosure under sections 552.101, 552.130, and 552.152 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

The sheriff's office asserts the dates of birth are excepted from public disclosure under section 552.101 of the Government Code in conjunction with common-law privacy. Section 552.101 excepts from disclosure "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. *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. *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.). Thus, the sheriff's office must withhold all public citizens' dates of birth 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. The sheriff's office must withhold the motor vehicle record information you marked under section 552.130 of the Government Code.

Section 552.152 of the Government Code provides the following:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Id. § 552.152. The sheriff's office states the information it marked pertains to an undercover officer. The sheriff's office represents release of this information would subject an officer to a substantial threat of physical harm. Therefore, we find section 552.152 is applicable to the identity of the undercover officer within the information at issue. Accordingly, the sheriff's office must withhold the identifying information of the undercover officer, which it has marked, under section 552.152 of the Government Code.

In summary, the sheriff's office must withhold all public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy. The sheriff's office must withhold the motor vehicle record information you marked under section 552.130 of the Government Code. The sheriff's office must withhold the identifying information of the undercover officer, which it has marked, under section 552.152 of the Government Code. 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.

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,

Erin Groff
Assistant Attorney General
Open Records Division

EMG/mo

Ref: ID# 989448

Enc. Submitted documents

c: Requestor
(w/o enclosures)