



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

March 14, 2016

Ms. Crystal Koonce  
Open Records  
Williamson County Sheriff's Office  
508 South Rock Street  
Georgetown, Texas 78626

OR2016-05853

Dear Ms. Koonce:

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# 601336.

The Williamson County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a specified report number. You claim the requested information is excepted from disclosure under sections 552.101, 552.130, and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code 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, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. This office has found that personal financial information not relating to the financial transaction between an individual and a governmental body is excepted from required public disclosure under common-law privacy. *See* Open Records Decision Nos. 600 (1992), 545 (1990). 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.*, 540 S.W.2d

at 682. In considering whether a public citizen's date of birth is private, the Third Court of Appeals looked to the supreme court's rationale in *Texas Comptroller of Public Accounts v. Attorney General of Texas*, 354 S.W.3d 336 (Tex. 2010). *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 supreme court concluded public employees' dates of birth are private under section 552.102 of the Government Code because the employees' privacy interest substantially outweighed the negligible public interest in disclosure.<sup>1</sup> *Texas Comptroller*, 354 S.W.3d at 347-48. Based on *Texas Comptroller*, the court of appeals concluded the privacy rights of public employees apply equally to public citizens, and thus, public citizens' dates of birth are also protected by common-law privacy pursuant to section 552.101. *City of Dallas*, 2015 WL 3394061, at \*3. However, we note the information at issue includes the requestor's date of birth. The requestor has a right of access to this information. See Gov't Code § 552.023 (person or person's authorized representative has special right of access to records that contain information relating to the person that are protected from public disclosure by laws intended to protect that person's privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself).

Upon review, we find the information you have marked and indicated, as well as the information we have marked, satisfy the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the sheriff's office must withhold the information you have marked and indicated and the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. We note the information you have indicated is contained in a video recording. The sheriff's office states it lacks the technical capability to redact the information subject to section 552.101 in conjunction with common-law privacy from the video recording. Based on this representation, we agree the sheriff's office must withhold the video recording you have indicated in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy.<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(a)(1)-(2). Upon review, we find most of the information you have marked, the information you have indicated, and the information we have marked are subject to section 552.130. However, the information we have marked for release is not subject to section 552.130 and may not be withheld on that basis. Accordingly, except for the information we have marked for release, the sheriff's office must withhold the information you have marked and indicated and the information we have marked under section 552.130 of the Government Code. We note the information you

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<sup>1</sup>Section 552.102(a) excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Gov't Code § 552.102(a).

<sup>2</sup>As our ruling on this information is dispositive, we need not address your remaining argument against its disclosure.

have indicated is contained in video recordings. 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 video recordings you have indicated in their entireties under section 552.130 of the Government Code.

Section 552.136 of the Government Code states "[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." *Id.* § 552.136; *see also id.* § 552.136(a) (defining "access device"). Accordingly, we find the sheriff's office must withhold the information you have marked under section 552.136 of the Government Code.

In summary, the sheriff's office must withhold the information you have marked and the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The sheriff's office must withhold the video recording you have indicated in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy. Except for the information we have marked for release, the sheriff's office must withhold the information you have marked and the information we have marked under section 552.130 of the Government Code. The sheriff's office must withhold the video recordings you have indicated in their entireties under section 552.130 of the Government Code. The sheriff's office must withhold the information you have marked under section 552.136 of the Government Code. The remaining information must be released.

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 [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Jennifer Luttrall

Assistant Attorney General  
Open Records Division

JL/akg

Ref: ID# 601336

Enc. Submitted documents

c: Requestor  
(w/o enclosures)