



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 4, 2015

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

OR2015-25430

Dear Ms. Lentz:

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# 592402.

The Williamson County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a specified address during a specified time period. You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.152 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e) (governmental body must provide comments explaining why exceptions raised should apply to information requested). The sheriff's office states some of the submitted information relates to a concluded case that did not result in a conviction or deferred adjudication. Based on the sheriff's office's representation, we conclude section 552.108(a)(2) is applicable to the information the sheriff's office marked.

Section 552.108, however, does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See* Open Records Decision No. 127 (1976) (summarizing types of information made public by *Houston Chronicle*). Thus, with the exception of basic information, the sheriff's office may withhold information it marked under section 552.108(a)(2) of the Government Code.¹

Next, we address your remaining arguments for the remaining 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. *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. 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.² *Tex. 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. Thus, the sheriff's office must withhold the dates of birth you have 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(a). The sheriff's office must withhold the motor vehicle record information you have marked in the remaining information under section 552.130 of the Government Code.

Section 552.152 of the Government Code provides:

¹As our ruling is dispositive, we need not address your remaining argument against disclosure of this information..

²Section 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).

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.

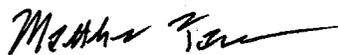
Id. § 552.152. You state some of the remaining information reveals the identity of an undercover officer of the sheriff's office. You state "[r]eleasing the names of undercover narcotics officers would cause them to face a substantial threat of physical harm and the officers would be put at risk by the release of this information." Based on these representations, we find the sheriff's office has demonstrated the release of identifying information of the officer at issue, which you have marked, would subject the officer at issue to a substantial threat of harm. Thus, the sheriff's office must withhold the information you have marked under section 552.152 of the Government Code.

In summary, with the exception of basic information, the sheriff's office may withhold the information you marked under section 552.108(a)(2) of the Government Code. The sheriff's office must withhold the dates of birth you have marked under section 552.101 of the Government Code in conjunction with common law privacy, the motor vehicle record information you have marked under section 552.130, and the information you have marked under section 552.152. 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 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,



Matthew Taylor
Assistant Attorney General
Open Records Division

MT/sb

Ref: ID# 592402

Enc. Submitted documents

c: Requestor
(w/o enclosures)