



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

January 5, 2016

Sheriff Danny C. Dominguez  
Presidio County Sheriff's Office  
P.O. Drawer V  
Marfa, Texas 79843

OR2016-00174

Dear Sheriff Dominguez:

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# 593372.

The Presidio County Sheriff's Office (the "sheriff's office") received a request for specified information pertaining to procedures for notifying U.S. Immigration and Customs Enforcement about illegal immigrants detained at the Presidio County Jail, a list of "non-U.S. citizens" booked into jail; a log of all Act requests made to the sheriff's office; and aggregate numbers by year of undocumented immigrant detainers. The sheriff's office states it will release some of the requested information, but claims some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception and reviewed the submitted representative sample of information.<sup>1</sup>

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. This section encompasses section 1304(b) of title 8 of the United States Code, which addresses the confidentiality of records of the registration of aliens under

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<sup>1</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.

section 1301 of the United States Code. Section 1304(b) provides, “[a]ll registration and fingerprint records made under the provisions of this subchapter shall be confidential, and shall be made available only (1) pursuant to section 1357(f)(2) of this title, and (2) to such persons or agencies as may be designated by the Attorney General.” 8 U.S.C. § 1304(b). Upon review, we find the alien registration numbers you have marked are confidential under title 8, section 1304(b) of the United States Code. Thus, the sheriff’s office must withhold the alien registration numbers you have marked under section 552.101 of the Government Code in conjunction with section 1304(b) of title 8 of the United States Code.

Section 552.101 of the Government Code also 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.<sup>2</sup> *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. We agree, 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.

To conclude, the sheriff’s office must withhold the alien registration numbers you have marked under section 552.101 of the Government Code in conjunction with section 1304(b) of title 8 of the United States Code. The sheriff’s office must also withhold the dates of birth you have marked under section 552.101 of the Government Code in conjunction with common-law privacy. 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.

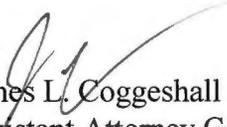
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <http://www.texasattorneygeneral.gov/open/>

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<sup>2</sup>Section 552.102(a) exempts 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).

[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,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/bhf

Ref: ID# 593372

Enc. Submitted documents

c: Requestor  
(w/o enclosures)