



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 13, 2016

Sergeant Alex Arnold  
Northlake Police Department  
1400 FM 407  
Northlake, Texas 76247

OR2016-01018

Dear Sergeant Arnold:

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# 597505.

The Northlake Police Department (the "department") received a request for a specified accident report. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> We have considered the exception 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 information subject to chapter 550 of the Transportation Code. Section 550.065 applies only to a written report of an accident required under section 550.061, 550.062, or 601.004. Transp. Code § 550.065(a)(1).

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<sup>1</sup>Although you do not raise section 552.101 of the Government Code in your brief, we understand you to raise this exception based on the substance of your argument.

Chapter 550 requires the creation of a written report when the accident resulted in injury to or the death of a person or damage to the property of any person to the apparent extent of \$1,000 or more. *Id.* §§ 550.061 (operator's accident report), .062 (officer's accident report). An accident report is privileged and is used confidentially by the Texas Department of Transportation, a local Texas governmental agency, or a federal agency for accident prevention purposes. *Id.* § 550.065(b). However, a governmental entity may release an accident report in accordance with subsection (c) and (c)(1). *Id.* § 550.065(c), (c-1). Section 550.065(c) provides that a governmental entity shall release an accident report to a person or entity listed under this subsection. *Id.* § 550.065(c). In this instance, the requestor is a person listed under section 550.065(c). Thus, the department must release the accident report to this requestor pursuant to section 550.065(c) of the Transportation Code.

However, we also note the submitted information contains the dates of birth of public citizens. 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 that 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> *Texas Comptroller*, 354 S.W.3d at 347-48. Based on *Texas Comptroller*, the court of appeals concluded that 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 department must withhold all public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy. Thus, the department must withhold the dates of birth we have marked under section 552.101 of the Government Code.

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

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<sup>2</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).

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Kavid Singh". The signature is written in a cursive style with some loops and flourishes.

Kavid Singh  
Assistant Attorney General  
Open Records Division

KVS/eb

Ref: ID# 597505

Enc. Submitted documents

c: Requestor  
(w/o enclosures)