



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 10, 2016

Ms. Ana Vieira Ayala
Senior Attorney & Public Information Coordinator
Office of the General Counsel
The University of Texas System
201 West Seventh Street
Austin, Texas 78701-2902

OR2016-03206

Dear Ms. Ayala:

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# 597775 (OGC# 166218).

The University of Texas at Arlington (the "university") received a request for the field notes and citation information for a specified incident report and all reports, incidents, complaints, and other dealings with a named individual. You claim portions of the submitted information are excepted from disclosure under sections 552.101 and 552.130 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. *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.¹ *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. Upon review, we find the university must withhold the public citizen's date of birth you have marked under section 552.101 of the Government Code in conjunction with common-law privacy.²

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. Accordingly, the university must withhold most of the motor vehicle record information you have marked and the additional information we have marked for withholding, under section 552.130 of the Government Code. However, we find a portion of the information you have marked under section 552.130, which we have marked for release, does not constitute motor vehicle record information that is subject to section 552.130. Thus, the university may not withhold this information under section 552.130.

In summary, the university must withhold the public citizen's date of birth you have marked under section 552.101 of the Government Code in conjunction with common-law privacy. Except for the information we marked for release, the university must withhold the motor vehicle record information you have marked and we have marked for withholding under section 552.130 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/>

¹Section 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).

²You ask this office to issue a previous determination permitting the university to withhold public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy. *See* Gov't Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001). Please note the university may withhold public citizens' dates of birth without the necessity of requesting an attorney general decision pursuant to Open Records Letter No. 2016-00361 (2016).

[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,

A handwritten signature in black ink that reads "Cole Hutchison". The signature is written in a cursive style with a large initial "C".

Cole Hutchison
Assistant Attorney General
Open Records Division

CH/bhf

Ref: ID# 597775

Enc. Submitted documents

c: Requestor
(w/o enclosures)