



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 5, 2016

Ms. Jessica Alldredge
Administrative Assistant
Alvarado Police Department
600 South Parkway
Alvarado, Texas 76009

OR2016-10221

Dear Ms. Alldredge:

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# 609247.

The Alvarado Police Department (the "department") received a request for video recordings pertaining to a specified arrest.¹ You claim the submitted information is excepted from disclosure under section 552.130 of the Government Code.² We have considered the exception you claim and reviewed the submitted information.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or 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. Gov't Code § 552.130(a). Some of the submitted video recordings, which we have indicated, contain motor vehicle record information subject to section 552.130. You state

¹As you have not submitted to this office a copy of the written request for information, we take our description of the requested information from your brief.

²We note the department failed to comply with its procedural obligations under the Act. *See* Gov't Code § 552.301(e). However, because sections 552.101 and 552.130 of the Government Code can provide compelling reasons to withhold information, we will address the applicability of these exceptions to the information at issue. *Id.* § 552.302. The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

the department lacks the technological capability to redact information from these recordings. Based on this representation, we conclude the department must withhold the video recordings we have indicated in their entireties under section 552.130. *See* Open Records Decision No. 364 (1983). However, the remaining video recording does not contain information subject to section 552.130 of the Government Code and it may not be withheld on that basis.

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.³ *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. The remaining video recording contains a date of birth of a public citizen. As noted above, you state the department lacks the technological capability to redact information from video recordings. Thus, the department must withhold the remaining video recording under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the department must withhold the video recordings we have indicated under section 552.130 of the Government Code. The department must withhold the remaining video recording under section 552.101 of the Government Code in conjunction with common-law privacy.

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/>

³Section 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).

[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, appearing to read "Lee Seidlits". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Lee Seidlits
Assistant Attorney General
Open Records Division

CLS/bw

Ref: ID# 609247

Enc. Submitted documents

c: Requestor
(w/o enclosures)