



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 21, 2016

Ms. Stephanie H. Harris
City Attorney
City of Paris
P.O. Box 9037
Paris, Texas 75461-9037

OR2016-21298

Dear Ms. Harris:

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# 630235.

The Paris Police Department (the "department") received a request for information pertaining to a specified accident. The department states it has released some of the requested information, but claims some of the requested information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

Section 552.301 of the Government Code prescribes the procedures that a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Pursuant to section 552.301(e), a governmental body must submit to this office within fifteen business days of receiving an open records request (1) written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. Gov't Code § 552.301(e). The department received the request for information on July 25, 2016. The department informs us it seeks to withhold portions of a responsive Request for Service Report (the "report"). However, as of the date of this letter, the department has not submitted

a copy or representative sample of this report. Therefore, the department failed to comply with the procedural requirements mandated by section 552.301(e) regarding the report.¹

A governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless the governmental body demonstrates a compelling reason to withhold the information from disclosure. *See* Gov't Code § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ); *see also* Open Records Decision No. 630 (1994). The presumption that information is public under section 552.302 can generally be overcome by demonstrating the information is confidential by law or third-party interests are at stake. *See* Open Records Decision Nos. 630 at 3, 325 at 2 (1982). Because section 552.101 of the Government Code makes information confidential, it can provide a compelling reason to overcome this presumption. However, we have no basis for concluding any of the information in the report is excepted under section 552.101 because the department failed to submit it to us for our review. Therefore, we have no choice but to order the department to release the report in accordance with section 552.302 of the Government Code. If the department believes this information is confidential and may not lawfully be released, then it must challenge this ruling in court pursuant to section 552.324 of the Government Code.

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. The submitted responsive video recordings that the department seeks to withhold contain motor vehicle record information that is subject to section 552.130.² The department states it lacks the technical capability to redact the information subject to section 552.130 from the video recordings. Based on this representation, we agree the department must withhold these video recordings in their entirety under section 552.130.

To conclude, the department must release the report. The department must withhold the submitted responsive video recordings it seeks to withhold in their entirety under section 552.130 of the Government Code.


¹We note the department complied with section 552.301(e) regarding the submitted dash-cam video recordings.

²The department informs us it has released one of these video recordings to the requestor, and does not seek to withhold it under the Act.

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/bw

Ref: ID# 630235

Enc. Submitted documents

c: Requestor
(w/o enclosures)