



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 13, 2016

Ms. Stephanie H. Harris
City Attorney
City of Paris
P. O. Box 9307
Paris, Texas 75461-9037

OR2016-27558

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# 637521.

The Paris Police Department (the "department") received a request for eight categories of information pertaining to a specified incident. 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 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle operator's license or driver's license or a motor vehicle title or registration issued by a Texas agency, or an agency of another state or country. *See Gov't Code* § 552.130(a)(1)-(2). Upon review, we find the submitted information contains motor vehicle record information. We also find the submitted video recordings contain motor vehicle record information subject to section 552.130. Some of the information you have marked belongs to the requestor's client. Because section 552.130 protects personal privacy, the requestor has a right of access to motor vehicle record information of the requestor's client pursuant to section 552.023 of the Government Code. *See id.* § 552.023(a) ("person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and that is protected from disclosure by laws intended to protect that person's privacy interests"); Open Records

Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). You state the department does not have the technological capability to redact information from the video recordings. Accordingly, we find the department must withhold the video recordings in their entireties, as well as the information we marked, under section 552.130 of the Government Code.

You assert the remaining information contains a date of birth which is excepted from public disclosure under section 552.101 of the Government Code in conjunction with common-law privacy. Section 552.101 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. Accordingly, we find the department must withhold the marked date of birth under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the department must withhold the motor vehicle record information we marked and the video recordings in their entireties under section 552.130 of the Government Code. The department must withhold the marked date of birth under section 552.101 of the Government Code in conjunction with common-law privacy. The department must release the remaining information.²

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.

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).

²We note the requestor has a right of access to some of the information being released. *See* Gov’t Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual’s authorized representative requests information concerning the individual).

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,

A handwritten signature in black ink, appearing to read "Emily Kunst", with a long horizontal flourish extending to the right.

Emily Kunst
Assistant Attorney General
Open Records Division

EK/eb

Ref: ID# 637521

Enc. Submitted documents

c: Requestor
(w/o enclosures)