



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 18, 2017

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

OR2017-23939

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# 680538.

The Paris Police Department (the "department") received a request for information pertaining to a specified incident. You state you will release some information to the requestor. You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note a portion of the submitted information consists of officers' body worn camera recordings. Body worn cameras are subject to chapter 1701 of the Occupations Code. Chapter 1701 provides the procedures a requestor must follow when seeking a body worn camera recording. Section 1701.661(a) provides:

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<sup>1</sup>Although you do not cite to section 552.101 of the Government Code in your brief to this office, we understand you to raise this section based on your markings. Further, although you have marked some of the submitted information under section 552.108 of the Government Code, you provide no arguments explaining how this exception is applicable to the information at issue. Therefore, we assume you no longer assert this exception. *See* Gov't Code §§ 552.301, .302.

A member of the public is required to provide the following information when submitting a written request to a law enforcement agency for information recorded by a body worn camera:

- (1) the date and approximate time of the recording;
- (2) the specific location where the recording occurred; and
- (3) the name of one or more persons known to be a subject of the recording.

Occ. Code § 1701.661(a). In this instance, the requestor does not give the requisite information under section 1701.661(a). As the requestor did not properly request the body worn camera recordings at issue pursuant to chapter 1701, our ruling does not reach this information and it need not be released.<sup>2</sup> However, pursuant to section 1701.661(b), a “failure to provide all the information required by Subsection (a) to be part of a request for recorded information does not preclude the requestor from making a future request for the same recorded information.” *Id.* 1701.661(b).

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. The court of appeals has concluded public citizens’ dates of birth are protected by common-law privacy pursuant to section 552.101. *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.). Thus, the department must withhold the public citizen’s date of birth you marked under section 552.101 of the Government Code in conjunction with common-law privacy.

You state you will redact the information you marked in the remaining information pursuant to section 552.130(c) of the Government Code.<sup>3</sup> Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s or driver’s license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency

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<sup>2</sup>As we are able to make this determination, we need not address the argument against disclosure of this information.

<sup>3</sup>Section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov’t Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

of Texas or another state or country is excepted from public release. Gov't Code § 552.130(a). We note the requestor has a right of access to her client's motor vehicle record information. *Id.* § 552.023(a) (person or person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public 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). Upon review, we find the remaining video recordings contain visible motor record vehicle information that does not belong to the requestor's client. You state the department does not have the technological capability to redact the motor vehicle record information from the video recordings at issue. Accordingly, the department must withhold the remaining video recordings in their entireties under section 552.130 of the Government Code. *See* Open Records Decision No. 364 (1983). Further, we note some of the remaining information is subject to section 552.130. We note some of the motor vehicle record information at issue may belong to the requestor's client, and, as such, the requestor may have a right of access to such information. *See* Gov't Code § 552.023(a); ORD 481 at 4. However, because we are unable to determine whether the information at issue belongs to the requestor's client, we must rule conditionally. To the extent the motor vehicle record information we have marked belongs to the requestor, the department must release it under section 552.023 of the Government Code. To the extent the motor vehicle record information we have marked does not belong to the requestor, the department must withhold it under section 552.130 of the Government Code. However, we find you have not demonstrated the remaining information at issue consists of motor vehicle record information subject to section 552.130, and the department may not withhold this information under section 552.130 of the Government Code.

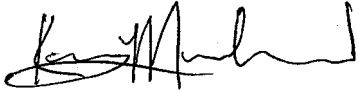
In summary, as the requestor did not properly request the body worn camera recordings at issue pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information, and the department need not release it in response to this request for information. The department must withhold the public citizen's date of birth you marked under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the remaining video recordings in their entireties and, to the extent the information does not belong to the requestor's client, the information we have marked under section 552.130 of the Government Code. The department must release the remaining information.

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,

A handwritten signature in black ink, appearing to read "Kenny Moreland". The signature is fluid and cursive, with a large initial "K" and "M".

Kenny Moreland  
Assistant Attorney General  
Open Records Division

KJM/gw

Ref: ID# 680538

Enc. Submitted documents

c: Requestor  
(w/o enclosures)