



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 30, 2019

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

OR2019-27316

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# 788336.

The Paris Police Department (the "department") received a request for twenty-four categories of information pertaining to a specified incident involving the requestor's clients. You state the department will release some information upon payment of a cost estimate.¹ You claim the submitted body worn camera recordings were not properly requested pursuant to section 1701.661 of the Occupations Code. We have considered your argument and reviewed the submitted information.

The submitted information consists of peace 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) of the Occupations Code provides the following:

¹ You state the department sent the requestor a cost estimate of charges pursuant to section 552.2615 of the Government Code. *See* Gov't Code § 552.2615. The estimate of charges required the requestor to provide a deposit for payment of anticipated costs under section 552.263 of the Government Code. *See id.* § 552.263(a).

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). You assert the requestor did not properly request the body worn camera recordings at issue pursuant to chapter 1701 of the Occupations Code. However, we find the instant request includes the information required by section 1701.661(a). *Id.* Accordingly, we find the requestor properly requested the submitted body worn camera recordings. Therefore, we will consider whether the submitted information is otherwise excepted from disclosure under the Act.

Section 552.101 of the Government Code excepts from public disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.”² 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. *See 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.). We note the requestor has a right of access to his client’s dates of birth pursuant to section 552.023 of the Government Code, and this information may not be withheld from this requestor under common-law privacy. *See* Gov’t Code § 552.023(a) (governmental body may not deny access to person to whom information relates or person’s agent on ground that information is considered confidential by privacy principles); ORD 481 at 4 (1987). Accordingly, with the exception of the dates of birth of the requestor’s clients, the department must withhold the visible public citizen’s date of birth within the submitted information under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code excepts from public disclosure 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. *See* Gov’t Code § 552.130. We note, because section 552.130 protects privacy

² The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

interests, the requestor has a right of access to his clients' motor vehicle record information pursuant to section 552.023 of the Government Code. *See id.* § 552.023(b); ORD 481 at 4. Accordingly, with the exception of the information pertaining to the requestor's clients, the department must withhold all audible and visible license plates, driver's license information, and motor vehicle registration information in the remaining information under section 552.130 of the Government Code.

In summary, with the exception of the dates of birth of the requestor's clients, the department must withhold the visible public citizen's date of birth within the submitted information under section 552.101 of the Government Code in conjunction with common-law privacy. With the exception of the information pertaining to the requestor's clients, the department must withhold all audible and visible license plates, driver's license information, and motor vehicle registration information in the remaining information 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



James M. Graham
Assistant Attorney General
Open Records Division

JMG/gw

Ref: ID# 788336

Enc. Submitted documents

c: Requestor
(w/o enclosures)