



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 15, 2019

Ms. Samantha Courtney
Records Division
Hood County Sheriff's Office
400 Deputy Larry Miller Drive
Granbury, Texas 76048

OR2019-28818

Dear Ms. Courtney:

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# 791221 (ID # R19-00884).

The Hood County Sheriff's Office (the "sheriff's office") received a request for three categories of information pertaining to a specified incident. You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

Initially, we note the submitted information includes deputies' 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:

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

¹ Although you do not raise section 552.101 of the Government Code in conjunction with common-law privacy in your brief, we understand you to raise this exception based on your redactions in the documents.

(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. 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).

We note the sheriff’s office has redacted some of the submitted information. A governmental body that seeks to withhold requested information must submit to this office a copy of the information, labeled to indicate which exceptions apply to which parts of the copy, unless the governmental body has received a previous determination for the information at issue. Gov’t Code § 552.301(a), (e)(1)(D). The sheriff’s office has redacted motor vehicle record information pursuant to section 552.130(c) of the Government Code. *Id.* § 552.130(c)-(e) (governmental body allowed to redact motor vehicle record information without necessity of seeking attorney general decision, but must notify requestor in accordance with section 552.130(e)). However, the sheriff’s office has not been authorized to withhold dates of birth without seeking a ruling from this office. *Id.* § 552.301 (a); Open Records Decision No. 673 (2000). As such, this information must be submitted in a manner that enables this office to determine whether the information comes within the scope of an exception to disclosure. In this instance, we can discern the nature of the remaining redacted information. In the future, however, the sheriff’s office should refrain from redacting any information it is not authorized to withhold in seeking an open records ruling. Failure to do so may result in the presumption the redacted information is public. *See* Gov’t Code § 552.302.

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 of Texas or another state or country is excepted from public release. *Id.* § 552.130(a). Upon review, we find the remaining video recording contains information subject to section 552.130. You state the sheriff’s office does not have the technological capability to redact the motor vehicle record information from the video recording. Accordingly, the sheriff’s office must withhold the submitted video recording in its entirety under section 552.130 of the Government Code. *See* Open Records Decision No. 364 (1983).

We understand the sheriff’s office asserts dates of birth are 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. The court of appeals has concluded public citizens’ dates of birth are protected by common-law privacy pursuant to section 552.101. *Paxton*

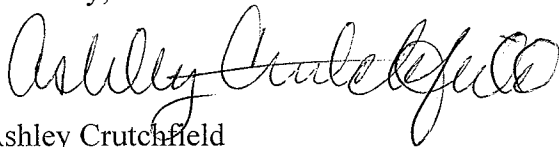
v. *City of Dallas*, No. 03-13-00546-CV, 2015 WL 3394061, at *3 (Tex. App. Austin May 22, 2015, *pet. denied*) (mem. op.). Thus, the sheriff's office must withhold the public citizen's date of birth from the remaining information under section 552.101 of the Government Code.

In summary, the submitted body worn camera recording at issue was not properly requested pursuant to chapter 1701 of the Occupations Code and need not be released to this requestor in response to this request for information. The sheriff's office must withhold the remaining video recording in its entirety under section 552.130 of the Government Code. The sheriff's office must withhold the public citizen's date of birth under section 552.101 of the Government Code in conjunction with common-law privacy. The sheriff's office 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,



Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/rm

Ref: ID# 791221

Enc. Submitted documents

c: Requestor
(w/o enclosures)