



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 17, 2020

Ms. Alicia K. Kreh
Counsel for the City of Southlake
Taylor Olson Adkins Sralla Elam, L.L.P.
6000 Western Place, Suite 2000
Fort Worth, Texas 76107

OR2020-01699

Dear Ms. Kreh:

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# 806775.

The City of Southlake (the "city"), which you represent, received four requests from different requestors for information pertaining to a specified incident. You state you will release some of the requested information. You state you will redact information under sections 552.130(c) and 552.147(b) of the Government Code.¹ You also state you will redact information pursuant to Open Records Decision No. 684 (2009).² You claim the submitted body worn camera recordings were not properly requested pursuant to chapter 1701 of the Occupations Code. You also claim some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered your arguments and reviewed the submitted information.

¹ We note 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). Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. *See id.* § 552.147(b).

² Open Records Decision No. 684 is a previous determination authorizing all governmental bodies to withhold certain categories of information, including e-mail addresses of members of the public subject to section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

Initially, we note the submitted information includes city police 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:

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 requestors do not give the requisite information under section 1701.661(a). As the requestors 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).

You assert the 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 city must withhold all public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the submitted body worn camera recordings at issue were not properly requested pursuant to chapter 1701 of the Occupations Code and need not be released to these requestors in response to this request for information. The city must withhold all public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy. The city 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/eb

Ref: ID# 806775

Enc. Submitted documents

c: 4 Requestors
(w/o enclosures)