



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 21, 2022

Ms. Holli Clements  
Deputy City Attorney  
City of Killeen  
P.O. Box 1329  
Killeen, Texas 76540

OR2022-17472

Dear Ms. Clements:

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# 954171 (Ref. No. W038816).

The City of Killeen (the "city") received a request for information pertaining to a specified incident involving the requestor's client. You state the city has released some of the requested information to the requestor, including the police officer's crash report pursuant to section 550.065(c) of the Transportation Code. *See* Transp. Code § 550.065(c). You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code 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 information made confidential by other statutes. Body worn cameras are subject to chapter 1701 of the Occupations Code. Section 1701.661(a) of the Occupations Code states the information a requestor must provide when seeking a body worn camera recording. *See* Occ. Code § 1701.661(a). We note the requestor provides the requisite information for the information at issue. *Id.* However, we also note section 1701.661(f) of the Occupations Code provides, in relevant part, as follows:

A law enforcement agency may not release any portion . . . of a recording involving the investigation of conduct that constitutes a misdemeanor punishable by fine only and does not result in arrest, without written

authorization from the person who is the subject of that portion of the recording or, if the person is deceased, from the person's authorized representative.

*Id.* § 1701.661(f). You state the information at issue relates to an investigation of conduct that constitutes a misdemeanor punishable by fine only and did not result in an arrest. You also state you have not received a written authorization for release from all of the subjects of the recordings. *See id.* Accordingly, we find the city must withhold the information we have indicated under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code. *See generally King v. Paxton*, 576 S.W.3d 881 (Tex. App.—Austin 2019, pet. denied). However, the remaining information does not consist of a body worn camera recording. Therefore, the remaining information is not subject to section 1701.661 of the Occupations Code, and the city may not withhold the remaining information under section 552.101 of the Government Code on that basis.

Section 552.101 of the Government Code also 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 Third 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.). Thus, the city must withhold all audible dates of birth within the remaining information under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release.<sup>1</sup> *See Gov't Code* § 552.130. We note section 552.130 protects personal privacy. Accordingly, the requestor has a right of access to his client's motor vehicle record information under section 552.023 of the Government Code and it may not be withheld from him under section 552.130. *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 public disclosure by laws intended to protect that person's privacy interests"); ORD 481 at 4 (privacy theories not implicated when individual requests information concerning himself). Accordingly, with the exception of the information pertaining to the requestor's client, the city must withhold all visible or audible license plates, license plate numbers, states of issuance, and drivers' license numbers within the remaining information under section 552.130 of the Government Code.

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<sup>1</sup> The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).*

In summary, the city must withhold the information we have indicated under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code. The city must withhold all audible dates of birth within the remaining 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 client, the city must withhold all visible or audible license plates, license plate numbers, states of issuance, and drivers' license numbers within the remaining information under section 552.130 of the Government Code. 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,

Alexandra C. Burks  
Assistant Attorney General  
Open Records Division

ACB/jxd

Ref: ID# 954171

Enc. Submitted documents

c: Requestor  
(w/o enclosures)