



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 8, 2022

Ms. Nicole A. Corr  
Counsel for the City of Colleyville  
Wood & Banowsky. P.L.L.C.  
5810 Long Prairie Road, Suite 700-220  
Flower Mound, Texas 75028

OR2022-23572

Dear Ms. Corr:

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# 964911 (Reference No. PD-22-0046).

The Colleyville Police Department (the "department"), which you represent, received a request for information pertaining to a specified incident. The department claims some of the submitted information was not properly requested pursuant to section 1701.661 of the Occupations Code. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

The submitted information includes law enforcement 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 provides, in relevant part, the following:

(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 claim the requestor did not provide the information required by section 1701.661(a). Upon review, we agree the requestor did not provide the requisite information under section 1701.661(a). As the body worn camera recordings at issue were not properly requested by the requestor pursuant to chapter 1701, our ruling does not reach this information, with respect to the requestor, and it need not be released.<sup>1</sup> However, pursuant to section 1701.661(b), a “failure to provide all the information required by [s]ubsection (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 of the Government Code excepts “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, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. 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.). This office has found personal financial information not relating to a financial transaction between an individual and a governmental body is excepted from required public disclosure under common-law privacy. *See, e.g.*, Open Records Decision Nos. 545 (1990) (common-law privacy protects mortgage payments, assets, bills, and credit history), 523 (1989) (common-law privacy protects credit reports, financial statements, and other personal financial information), 373 (1983) (sources of income not related to financial transaction between individual and governmental body protected under common-law privacy). 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 own private information pursuant to section 552.023 of the Government Code. *See* Gov’t Code § 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”); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). The department must withhold all dates of births and indicated information that does not belong to the requestor under section 552.101 of the Government Code in conjunction with common-law privacy.

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<sup>1</sup> As we are able to make this determination, we need not address the remaining arguments against disclosure of this information with respect to the first requestor.

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. *See* Gov't Code § 552.130. We note section 552.130 is designed to protect the privacy of individuals. *See id.* § 552.023; ORD 481 at 4. In this instance, the requestor has a right of access to his own motor vehicle record information at issue under section 552.023 of the Government Code. Thus, except for the motor vehicle record information at issue belonging to the requestor, the department must withhold the motor vehicle record information we marked and indicated under section 552.130 of the Government Code.

In summary, the department must withhold all dates of births and indicated information that does not belong to the requestor under section 552.101 of the Government Code in conjunction with common-law privacy. Except for the motor vehicle record information at issue that belonging to the requestor, the department must withhold the motor vehicle record information we marked and indicated 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,

Cesar Mata  
Attorney  
Open Records Division

CM/jm

Ref: ID# 964911

Enc. Submitted documents

c: Requestor  
(w/o enclosures)