



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 4, 2017

Ms. Mary E. Miller
Assistant District Attorney
County of Denton
127 North Woodrow Lane, Suite 300
Denton, Texas 76205

OR2017-27410

Dear Ms. Miller:

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# 689564.

The Denton County Sheriff's Office (the "sheriff's office") received a request for internal investigations of a named deputy of the sheriff's office. We understand the department will redact dates of birth of members of the public pursuant to the previous determination issued in Open Records Letter No. 2015-27249 (2015).¹ The sheriff's office states it is releasing some of the requested information. The sheriff's office claims some of the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions the sheriff's office claims and reviewed the submitted information.

Initially, we note the submitted information includes police officers' body worn camera recordings. Body worn cameras are subject to chapter 1701 of the Occupations Code.

¹Open Records Letter No. 2015-27249 authorized the department to withhold dates of birth of members of the public under section 552.101 of the Government Code in conjunction with common-law privacy without the necessity of requesting an attorney general's decision.

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). In this instance, the requestor does not provide the requisite information under section 1701.661(a). As the body worn camera recordings at issue were not properly requested pursuant to chapter 1701 of the Occupations Code, 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 [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 552.130 of the Government Code excepts from disclosure 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. The sheriff’s office asserts the remaining audio and video recordings contain confidential motor vehicle record information that is excepted from disclosure under section 552.130. Upon review, we find some of the remaining audio and video recordings, which we have noted, contain confidential motor vehicle record information. In this instance, the sheriff’s office states it does not possess the technological capability to redact information from video files. Thus, we agree the sheriff’s office must withhold the video recordings we noted in their entireties under section 552.130 of the Government Code.² *See* Open Records Decision No. 364 (1983).

The sheriff’s office also states it does not possess the technological capability to redact information from audio files. However, because the sheriff’s office had the ability to copy the submitted audio recordings in order to submit them for our review, we believe the sheriff’s office has the capability to produce a copy of only the non-confidential portions of the audio recordings. Accordingly, the sheriff’s office must withhold all audible motor

²As our ruling is dispositive for this information, we need not address the remaining argument against its disclosure.

vehicle record information within the audio recording we noted. The remaining video and audio recordings do not contain motor vehicle record information. Accordingly, the sheriff's office may not withhold any portion of the remaining information under section 552.130 of the Government Code.

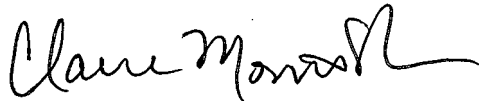
Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by chapter 411 of the Government Code, which makes confidential criminal history record information ("CHRI") generated by the National Crime Information Center or by the Texas Crime Information Center. *See id.* § 411.083(a). Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI that states obtain from the federal government or other states. Open Records Decision No. 565 (1990). The federal regulations allow each state to follow its individual laws with respect to the CHRI it generates. *See id.* Section 411.083 of the Government Code deems confidential CHRI that the Department of Public Safety ("DPS") maintains, except that DPS may disseminate this information as provided in chapter 411, subchapter F, or subchapter E-1 of the Government Code. *See Gov't Code* § 411.083(a). Sections 411.083(b)(1) and 411.089(a) authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release CHRI except to another criminal justice agency for a criminal justice purpose. *Id.* § 411.089(b)(1). Other entities specified in chapter 411 of the Government Code are entitled to obtain CHRI from DPS or another criminal justice agency; however, those entities may not release CHRI except as provided by chapter 411. *See generally id.* §§ 411.090-.127. Thus, any CHRI obtained from DPS or any other criminal justice agency must be withheld under section 552.101 in conjunction with chapter 411, subchapter F, of the Government Code. Upon review, we find the sheriff's office has not demonstrated any portion of the remaining information consists of CHRI for purposes of chapter 411 of the Government Code, and the sheriff's office may not withhold any of the remaining information under section 552.101 of the Government Code on that basis.

In summary, the submitted body worn camera recordings were not properly requested pursuant to chapter 1701 of the Occupations Code and they need not be released. The sheriff's office must withhold the video recordings we noted in their entirety under section 552.130 of the Government Code. The sheriff's office must withhold all audible motor vehicle record information within the audio recording we noted. 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 http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 689564

Enc. Submitted documents

c: Requestor
(w/o enclosures)