



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 13, 2019

Ms. Jo-Christy Brown
Counsel for the Lampasas Police Department
Law Office of JC Brown, PC
1411 West Avenue, Suite 100
Austin, Texas 78701

OR2019-06968

Dear Ms. Brown:

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# 755070.

The Lampasas Police Department (the "department"), which you represent, received a request for information pertaining to a specified incident. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.118 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the submitted information includes peace officers' body worn camera recordings. Body worn cameras are subject to chapter 1701 of the Occupations Code, which provides the procedures a requestor must follow when seeking a body worn camera recording. Section 1701.661(a) provides the following:

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 did not give the requisite information under section 1701.661(a). Because 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 the department need not release it.¹ 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).

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. This section 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; *see also* Open Records Decision No. 659 at 5 (1999). Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated that the requestor knows the identity of the individual involved, as well as the nature of certain incidents, the entirety of the information must be withheld to protect the individual’s privacy. In this instance, the request reveals that the requestor knows the identity of the individual involved and the department has revealed the nature of the incident at issue in its brief.² Therefore, withholding only the individual’s identity or certain details of the incident from the requestor would not preserve the subject individual’s common-law right of privacy. Accordingly, to protect the privacy of the individual to whom the information relates, the department must withhold the remaining information in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy.³

¹As we are able to make this determination, we need not address your arguments against disclosure of this information.

²In the future, the department should redact such information from its brief before sending a copy to the requestor. *See* Gov’t Code §§ 552.301(e-1), .352(a) (person commits offense if person distributes information considered confidential under the Act).

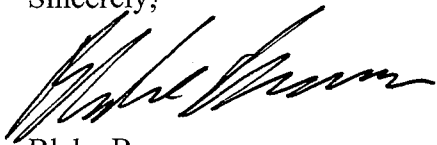
³As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

In summary, as the requestor did not properly request the body worn camera recordings at issue pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information and it need not be released. The department must withhold the remaining information in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy.

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,



Blake Brennan
Attorney
Open Records Division

BB/eb

Ref: ID# 755070

Enc. Submitted documents

c: Requestor
(w/o enclosures)