



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 28, 2019

Mr. Peter G. Smith
City Attorney
City of Richardson
P.O. Box 831078
Richardson, Texas 75083-1078

OR2019-08514

Dear Mr. Smith:

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# 757673 (Ref. No. 19-028).

The Richardson Police Department (the "department") received a request for information pertaining to a specified incident. You state the department released some of the requested information, including the police officer's crash report pursuant to section 550.065(c) of the Transportation Code. *See* Transp. Code § 550.065(c) (providing for release of accident report to person or entity listed under this subsection). You state you will redact dates of birth pursuant to Open Records Letter No. 2017-00069 (2017).¹ You claim some of the submitted information was 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 552.130 of the Government Code. We have considered the submitted arguments and reviewed the submitted information.

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

¹Open Records Letter No. 2017-00069 authorizes the city to withhold the dates of birth of public citizens under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a decision from this office.

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 requestor does not give the requisite information under section 1701.661(a). As 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 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).

Section 552.101 of the Government Code excepts “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.”² 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*. This office has found personal financial information not relating to a financial transaction between an individual and a governmental body is generally highly intimate or embarrassing. *See* Open Records Decision Nos. 600 (1992) (employee’s designation of retirement beneficiary, choice of insurance carrier, election of optional coverages, direct deposit authorization, forms allowing employee to allocate pretax compensation to group insurance, health care or dependent care), 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

²The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

privacy). Upon review, we conclude the information we have marked meets the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy.³

Section 552.136(b) of the Government Code provides, “[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” Gov’t Code § 552.136(b); *see id.* § 552.136(a) (defining “access device”). This office has concluded insurance policy numbers constitute access device numbers for purposes of section 552.136. Accordingly, the department must withhold the insurance policy number we have marked under section 552.136 of the Government Code.⁴

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 id.* § 552.130. Upon review, we find most of the remaining information you have marked consists of motor vehicle record information subject to section 552.130. Therefore, except for the information we have marked for release, the department must withhold the remaining motor vehicle record information you have marked under section 552.130 of the Government Code. However, you have failed to demonstrate any of the remaining information at issue is subject to section 552.130. Thus, the department may not withhold any of the remaining information at issue, which we have marked for release, under section 552.130 of the Government Code.

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 information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the insurance policy number we have marked under section 552.136 of the Government Code. Except for the information we have marked for release, the department must withhold the remaining motor vehicle record information you have marked 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.

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

⁴As our ruling is dispositive, we need not address your argument against disclosure of this information.

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,

A handwritten signature in black ink, appearing to read 'Meredith L. Coffman', with a long, sweeping underline.

Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/jxd

Ref: ID# 757673

Enc. Submitted documents

c: Requestor
(w/o enclosures)