



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 3, 2019

Mr. Adam Anderson
Assistant County Attorney
Montgomery County
501 North Thompson, Suite 300
Conroe, Texas 77301

OR2019-08965

Dear Mr. Anderson:

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# 765875 (ORR# 19PIA076).

The Montgomery County Sheriff's Office (the "sheriff's office") received two requests from the same requestor for video recordings related to a specified incident. You claim the submitted information is excepted from disclosure under section 552.130 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

Initially, we note the submitted information includes a peace officer's body worn camera recording. 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:

¹We note, and you acknowledge, the sheriff's office failed to comply with the procedural requirements of section 552.301 of the Government Code in requesting a decision from this office. *See* Gov't Code § 552.301(b). Nonetheless, because section 552.130 of the Government Code is a compelling reason to overcome the presumption of openness, we will address the applicability of this section to the submitted information. *See id.* § 552.302.

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 recording at issue pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information, and the sheriff's office is not required to release the body worn camera recording.² 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 552.130 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. Upon review, we find the remaining video recordings contain motor vehicle record information subject to section 552.130. You state the sheriff's office lacks the technological capability to redact the motor vehicle record information from the recordings. Based on this representation, we conclude the sheriff's office must withhold the remaining video recordings in their entirety under section 552.130 of the Government Code. *See* Open Records Decision No. 364 (1983).

In summary, as the requestor did not properly request the body worn camera recording at issue pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information and it need not be released. The sheriff's office must withhold the remaining video recordings in their entirety under section 552.130 of the Government Code.

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.

²As we are able to make this determination, 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 "Tim Neal". The signature is fluid and cursive, with a large initial "T" and "N".

Tim Neal
Assistant Attorney General
Open Records Division

TN/mo

Ref: ID# 765875

Enc. Submitted documents

c: Requestor
(w/o enclosures)