



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 18, 2019

Ms. Elissa Marek
Assistant City Attorney
City of Georgetown
P. O. Box 409
Georgetown, Texas 78627-0409

OR2019-10440

Dear Ms. Marek:

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# 760279 (ORR No. G007027-012919).

The Georgetown Police Department (the "department") received a request for information related to two named individuals. You claim some of the submitted information was not properly requested pursuant to chapter 1701 of the Occupations Code. You claim the remaining information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note, and you acknowledge, the submitted information contains police officers' body worn camera recordings. Body worn cameras are subject to chapter 1701 of the Occupations Code. Section 1701.661(a) of the Occupations Code provides:

(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 552.101 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 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. This office has found a compilation of an individual’s criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. *Cf. United States Dep’t of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989) (when considering prong regarding individual’s privacy interest, court recognized distinction between public records found in courthouse files and local police stations and compiled summary of information and noted that individual has significant privacy interest in compilation of one’s criminal history). Furthermore, we find a compilation of a private citizen’s criminal history is generally not of legitimate concern to the public. We note records relating to routine traffic violations are not considered criminal history information. *Cf. Gov’t Code § 411.082 (2)(B)* (criminal history record information does not include driving record information).

The present request requires the department to compile unspecified law enforcement records concerning the individuals named in the request, thus implicating the named individuals’ right to privacy. Therefore, to the extent the department maintains law enforcement records depicting the named individuals as suspects, arrestees, or criminal defendants that do not pertain to routine traffic offenses, the department must withhold any such information under section 552.101 in conjunction with common-law privacy. To the extent the information at issue does not depict the named individuals as suspects, arrestees, or criminal defendants or it pertains to a routine traffic offense, this information is not part of a criminal history compilation protected by common-law privacy and may not be withheld under section 552.101 on that basis. In that instance, we will consider your arguments against the disclosure of this information.

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

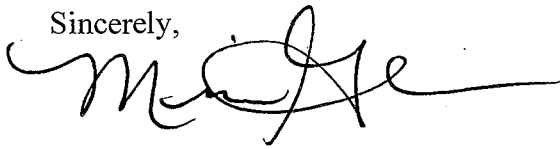
personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130. Upon review, we find the remaining information at issue contains motor vehicle record information. You state the department lacks the technological capability to redact information from video files. Accordingly, the department must withhold any remaining information in its entirety under section 552.130 of the Government Code. *See* Open Records Decision No. 364 (1983).

In summary, 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. To the extent the department maintains law enforcement records depicting the named individuals as suspects, arrestees, or criminal defendants that do not pertain to routine traffic offenses, the department must withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold any remaining information in its 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.

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,



Michelle Garza
Assistant Attorney General
Open Records Division

MG/eb

Ref: ID# 760279

Enc. Submitted documents

c: Requestor
(w/o enclosures)