



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 1, 2019

Ms. Mary E. Miller  
Assistant District Attorney  
Denton County Sheriff's Office  
127 North Woodrow Lane, Suite 300  
Denton, Texas 76205

OR2019-27416

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# 788544 (ORR# S002009).

The Denton County Sheriff's Office (the "sheriff's office") received a request for information related to citation numbers 302891 and 902892. The sheriff's office claims some of the requested information was not properly requested pursuant to section 1701.661 of the Occupations Code. 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 section 552.130 of the Government Code.<sup>1</sup> Additionally, the sheriff's office states release of some of the submitted information may implicate the proprietary interests of General Electrodynamics Corporation ("GEC"). Accordingly, the sheriff's office states, and provides documentation showing, it notified GEC of the request for information and of the right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have reviewed the submitted argument and the submitted information.

Initially, the sheriff's office states the requested information includes body worn camera video. Body worn cameras are subject to chapter 1701 of the Occupations Code. Chapter

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<sup>1</sup> Although the sheriff's office also raises section 552.101 of the Government Code in conjunction with common-law privacy and constitutional privacy for the submitted information, the sheriff's office provides no arguments explaining how these doctrines apply to the information at issue. Therefore, we assume the sheriff's office no longer assert these doctrines. *See* Gov't Code §§ 552.301, .302.

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 video 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).

Next, we note an interested third party is allowed ten business days after the date of its receipt of the governmental body’s notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov’t Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from GEC explaining why the information at issue should not be released. Therefore, we have no basis to conclude GEC has a protected proprietary interest in the information at issue. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the sheriff’s office may not withhold the information at issue on the basis of any proprietary interest GEC may have in the 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. The sheriff’s office asserts, and we agree, the submitted video recordings contain confidential motor vehicle record information that is excepted from disclosure under section 552.130. 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 entireties of the submitted video recordings under section 552.130 of the Government Code. *See* Open Records Decision No. 364 (1983).


We note some of the materials at issue may be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; see Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit.

In summary, as the requestor did not properly request the body worn camera video 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 entireties of the submitted video recordings under section 552.130 of the Government Code. The sheriff's office must release the remaining information; however, any information that is subject to copyright may be released only in accordance with copyright law.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Blake Brennan  
Assistant Attorney General  
Open Records Division

BBX/mo

Ref: ID# 788544

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Third party  
(w/o enclosures)