



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 2, 2019

Ms. Amy Bass-Domel
Open Records
Williamson County Sheriff's Office
508 South Rock Street
Georgetown, Texas 78626

OR2019-27669

Dear Ms. Bass-Domel:

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# 788948.

The Williamson County Sheriff's Office (the "sheriff's office") received two requests from the same requestor for information pertaining to a specified accident. The sheriff's office claims the requestor did not properly request the submitted body worn camera recordings pursuant to section 1701.661 of the Occupations Code. Additionally, the sheriff's office claims the submitted information is excepted from disclosure under sections 552.101, 552.130, and 552.136 of the Government Code. We have considered the sheriff's office's arguments and reviewed the submitted information.

As previously noted, the submitted information includes law enforcement officers' body worn camera recordings. Body worn cameras are subject to chapter 1701 of the Occupations Code. Chapter 1701 provides the procedures a requestor must follow when seeking a body worn camera recording. Section 1701.661 provides, in relevant part, the following:

(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, our ruling does not reach this information and it need not be released.¹ 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 552.130 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 portions of the remaining information consist of motor vehicle record information. We note section 552.130 protects personal privacy. Thus, the requestor has a right of access to his insured’s motor vehicle record information under section 552.023 of the Government Code and it may not be withheld from him under section 552.130. *See id.* § 552.023(a) (“person’s authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and that is protected from public disclosure by laws intended to protect that person’s privacy interests”); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). Accordingly, the sheriff’s office must withhold the motor vehicle record information it marked and the motor vehicle record information we marked under section 552.130 of the Government Code. The sheriff’s office also asserts, and we agree, the remaining video recordings contain confidential motor vehicle record information not belonging to the requestor’s insured 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 the video files. Thus, we agree the sheriff’s office must withhold the entireties of the remaining video recordings under section 552.130 of the Government Code.² *See* Open Records Decision No. 364 (1983). However, the sheriff’s office has failed to demonstrate any of the remaining information is subject to section 552.130. Thus, the sheriff’s office may not withhold any of the remaining information under section 552.130 of the Government Code.

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

¹ As we are able to make this determination, we need not address the sheriff’s office’s remaining arguments against disclosure of this information.

² As our ruling is dispositive, we need not address the sheriff’s office’s remaining arguments against disclosure of this information.

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*. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). Upon review, we find the sheriff's office has not demonstrated any of the remaining information is highly intimate or embarrassing and not of legitimate public concern. Thus, the sheriff's office may not withhold any of the remaining information under section 552.101 in conjunction with common-law privacy.

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.” *Id.* § 552.136(b); *see id.* § 552.136(a) (defining “access device”). This office has determined insurance policy numbers are access device numbers for purposes of section 552.136. Open Records Decision No. 684 at 9 (2009). However, the purpose of section 552.136 is to protect the privacy interests of individuals. Thus, the requestor has a right of access to his insured's own policy number under section 552.023 of the Government Code and it may not be withheld from him under section 552.136. *See id.* § 552.023(a); ORD 481 at 4. Therefore, the sheriff's office may not withhold any of the remaining information under section 552.136 of the Government Code.

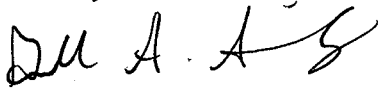
In summary, pursuant to section 1701.661 of the Occupations Code, our ruling does not reach the body worn camera recordings at issue and they need not be released. The sheriff's office must withhold the motor vehicle record information it marked, the motor vehicle record information we marked, and the entireties of the remaining video recordings under section 552.130 of the Government Code. The sheriff's office must release the remaining information.³

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.

³ As previously noted, the requestor has a right of access to some of the information being released. *See* Gov't Code § 552.023(a); ORD 481 at 4. If the sheriff's office receives another request for this information from an individual without such a right of access, we note section 552.130(c) of the Government Code allows a governmental body to react to the information described in section 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). Further, section 552.136(c) of the Government Code allows a governmental body to redact the information described in section 552.136(b) without the necessity of seeking a decision from the attorney general. *See id.* § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(d), (e).

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,

A handwritten signature in black ink, appearing to read "Gerald Arismendez". The signature is fluid and cursive, with the first name "Gerald" being the most prominent.

Gerald Arismendez
Assistant Attorney General
Open Records Division

GAA/be

Ref: ID# 788948

Enc. Submitted documents

c: Requestor
(w/o enclosures)