



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 17, 2020

Mr. Jeremy R. Page
Counsel for the City of Lancaster
Brown & Hofmeister, L.L.P.
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2020-11224

Dear Mr. Lancaster:

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# 822728 (File No. W14769).

The City of Lancaster (the "city"), which you represent, received a request for several categories of information pertaining to a specified accident. You state you will release some information. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the requested information consists officers' body worn camera video 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(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) for one of the submitted body worn camera videos. As the requestor did not properly request the body worn camera recording at issue 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 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). Further, we note the requestor provided the requisite information under section 1701.661(a) for the remaining body worn camera recordings. Accordingly, the requestor properly requested the remaining body worn camera recordings, and we will consider the city’s arguments against disclosure of this information.

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 some of the video recordings contain motor vehicle record information that is subject to section 552.130. The city states it lacks the technical capability to redact the information subject to section 552.130 from the recordings. Based on this representation, we agree the city must withhold the video recordings we indicated in their entirety under section 552.130 of the Government Code.² However, you have failed to demonstrate any portion of the remaining video recordings are subject to section 552.130. Thus, the city may not withhold any of the remaining information at issue under section 552.130 of the Government Code.

Section 552.101 of the Government Code excepts “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” 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*. *Id.* at 683. Upon review, we find the city has not demonstrated any of the remaining information at issue is highly intimate or embarrassing and not of legitimate public concern. Thus, the city may not withhold any portion of the remaining information under section 552.101 in conjunction with common-law privacy.

In summary, as the requestor did not properly request one of 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 city must withhold the video

¹ As we are able to make this determination, we need not address the argument against disclosure of this information.

² As our ruling for this information is dispositive, we need not address your remaining argument against its disclosure.

recordings we indicated in their entireties under section 552.130 of the Government Code. The city 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.

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,

Paige Lay
Assistant Attorney General
Open Records Division

PL/jxd

Ref: ID# 822728

Enc. Submitted documents

c: Requestor
(w/o enclosures)