



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 5, 2020

Ms. Rachel Saucier
Executive Assistant
City of Georgetown
P.O. Box 409
Georgetown, Texas 78627-0409

OR2020-24980

Dear Ms. Saucier:

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# 848929 (ORR# G011163).

The Georgetown Police Department (the "department") received a request for information related to 2017244002. The department claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception the department claims and reviewed the submitted information.

Initially, we note the submitted information includes a police officer's body worn camera recording. 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 recording at issue was 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 552.130 of the Government Code exempts 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.¹ *See* Gov’t Code § 552.130. Upon review, we find the remaining video recording contains confidential motor vehicle record information. In this instance, the department states it does not possess the technological capability to redact information from video files. Thus, we agree the department must withhold the entirety of the remaining video recording under section 552.130 of the Government Code.² *See* Open Records Decision No. 364 (1983).

Section 552.101 of the Government Code exempts “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 portions of the submitted audio recording, which we noted, satisfy the standard articulated by the Texas Supreme Court in *Industrial Foundation*. The department also states it does not possess the technological capability to redact information from audio files. However, because the department had the ability to copy the submitted audio recording in order to submit it for our review, we believe the department has the capability to produce a copy of only the non-confidential portions of the audio recording. Therefore, the department must withhold the information we noted under section 552.101 of the Government Code in conjunction with common-law privacy. However, the department may not withhold the entirety of the audio recording under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the submitted body worn camera recording was not properly requested pursuant to chapter 1701 of the Occupations Code and it need not be released. The

¹ The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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

department must withhold the entirety of the remaining video recording under section 552.130 of the Government Code. The department must withhold the information we noted within the submitted audio recording under section 552.101 of the Government Code in conjunction with common-law privacy and must release the remainder of the audio recording.

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,

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/mo

Ref: ID# 848929

Enc. Submitted documents

c: Requestor
(w/o enclosures)