



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 15, 2022

Ms. Lolli Hodge  
Records Clerk  
Portland Police Department  
1902 Billy G. Webb Drive  
Portland, Texas 78374

OR2022-04461

Dear Ms. Hodge:

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# 931248.

The Portland Police Department (the "department") received two requests from separate requestors for information pertaining to a specified incident. We understand you will release the CR-3 accident report pursuant to section 550.065(c) of the Transportation Code. *See* Transp. Code § 550.065(c) (providing for release of accident report to person or entity listed under this subsection). You claim some of the information was not properly requested pursuant to chapter 1701 of the Occupations Code. You also claim some of the submitted information is excepted from disclosure under sections 552.101, 552.130, and 552.136 of the Government Code. We have considered your arguments 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 of the Occupations Code 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 requestors do not provide the requisite information under section 1701.661(a) for the body worn camera recording. As this body worn camera recording 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 552.101 of the Government Code excepts from disclosure “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. The Third Court of Appeals has concluded public citizens’ dates of birth are protected by common-law privacy pursuant to section 552.101. *See Paxton v. City of Dallas*, No. 03-13-00546-CV, 2015 WL 3394061, at \*3 (Tex. App.—Austin May 22, 2015, pet. denied) (mem. op.). This office has found personal financial information not relating to a financial transaction between an individual and a governmental body is generally highly intimate or embarrassing. *See* Open Records Decision Nos. 523 (1989) (common-law privacy protects credit reports, financial statements, and other personal financial information), 373 (1983) (sources of income not related to financial transaction between individual and governmental body protected under common-law privacy).

Upon review, we find some of the information at issue satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Therefore, the department must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code excepts from public disclosure information relating to a motor vehicle operator’s or driver’s license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country. *See* Gov’t Code § 552.130. Accordingly, the department must withhold the information we marked under section 552.130 of the Government Code.

Section 552.136 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). Accordingly, the department must withhold the insurance policy numbers we have marked under section 552.136 of the Government Code.

In summary, as the body worn camera recording 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. The department must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the information we marked under section 552.130 of the Government Code. The department must withhold the insurance policy numbers we have marked under section 552.136 of the Government Code. The department must release the remaining information.<sup>1</sup>

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,

Joseph Hoggatt  
Assistant Attorney General  
Open Records Division

JWH/be

Ref: ID# 931248

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)

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<sup>1</sup> We note both requestors have a right of access to some of the information being released in this instance. *See* Gov’t Code § 552.023(a) (governmental body may not deny access to person to whom information relates or person’s agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Thus, if the department receives another request for the same information from a different requestor, the department must again seek a decision from this office.