



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 10, 2022

Ms. Sophia Buckley
Records Custodian
Argyle Police Department
P.O. Box 609
Argyle, Texas 76226

OR2022-13395

Dear Ms. Buckley:

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# 946576 (Ref. No. 51-2022).

The Town of Argyle (the "town") received a request for certain information pertaining to a specified incident involving the requestor.¹ You state the town has released some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the submitted information contains recordings from body worn cameras of town police officers, which 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

¹ As you did not submit a copy of the requestor's written request for information, we take our description from your brief to this office.

(3) the name of one or more persons known to be a subject of the recording.

Occ. Code § 1701.661(a). In this instance, as you have not submitted a copy of the request for information, we are not able to determine whether the requestor provided the requisite information under section 1701.661(a) for the body worn camera recordings at issue. Thus, we rule in the alternative. To the extent the requestor did not give the requisite information pursuant to section 1701.661(a) for the submitted body worn camera recordings, the requestor did not properly request such body worn camera recordings pursuant to chapter 1701 of the Occupations Code. In that instance, our ruling does not reach such information and the town need not release it.² 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). To the extent the requestor did provide the requisite information under section 1701.661(a) for the submitted body worn camera recordings, we will consider your argument against disclosure of the information at issue.

Next, we must address the town’s obligations under section 552.301 of the Government Code, which prescribes the procedures a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Pursuant to section 552.301(e), a governmental body must submit to this office within fifteen business days of receiving an open records request (1) written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *See Gov’t Code § 552.301(e)*. You state the town received the present request for information on March 2, 2022. As of the date of this letter, the town has not submitted for our review a copy of the written request for information. Consequently, we find the town has failed to comply with the requirements of section 552.301(e) of the Government Code.

Additionally, to the extent the requestor did provide the requisite information under section 1701.661(c), we note section 1701.662(c) of the Occupations Code provides:

Notwithstanding Section 552.301(e), Government Code, a governmental body’s submission to the attorney general of the information required by that subsection regarding a requested body worn camera recording is considered timely if made not later than the 25th business day after the date of receipt of the written request.

² In that instance, as we are able to make this determination, we need not address your argument against disclosure of this information.

See Occ. Code § 1701.662(c). While section 1701.662(c) overrides the time deadline of section 552.301(e), it does not override the governmental body’s obligation to submit the requested information pursuant to section 552.301(e). As noted above, the town received the present request for information on March 2, 2022. However, as of the date of this letter, you have not submitted to this office a copy of the written request for information. *See* Gov’t Code § 552.308(a)(1). Thus, to the extent the requestor did provide the requisite information under section 1701.661(a), we conclude the town also failed to comply with the time requirements of section 1701.662(c) of the Occupations Code and the submission requirements of section 552.301(e) of the Government Code.

Pursuant to section 552.302 of the Government Code, a governmental body’s failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ). Upon review, we find you have failed to establish a compelling reason to address section 552.108 of the Government Code. However, because sections 552.101 and 552.130 of the Government Code can provide compelling reasons to overcome the presumption of openness, we will address the applicability of these section to the information at issue.³

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. This section encompasses information made confidential by other statutes, such as chapter 411 of the Government Code, which pertains to criminal history record information (“CHRI”). CHRI generated by the National Crime Information Center or by the Texas Crime Information Center is confidential under federal and state law. CHRI means “information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions.” *Id.* § 411.082(2). Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI obtained from the federal government or other states. *See* 28 C.F.R. § 20.21; *see also* Open Records Decision No. 565 (1990). However, the federal regulations allow each state to follow its individual law with respect to CHRI it generates. *See* ORD 565. Section 411.083 of the Government Code makes CHRI maintained by the Texas Department of Public Safety (“DPS”) confidential, and only allows for the dissemination of this information as provided in subchapters E-1 and F of chapter 411 of the Government Code. *See* Gov’t Code § 411.083(a). Sections 411.083(b)(1) and 411.089(a) authorize the dissemination of CHRI to a criminal justice agency, but a criminal justice agency may only release CHRI to another criminal justice agency if it is for a criminal justice purpose. *Id.* § 411.089(b)(1). Certain other entities specified in chapter 411 of the Government Code are entitled to obtain CHRI

³ The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

from DPS or another criminal justice agency, but may not release CHRI except as provided by chapter 411. *See generally id.* §§ 411.090-.127. Thus, any CHRI obtained from DPS or any other criminal justice agency must be withheld under section 552.101 of the Government Code in conjunction with chapter 411. Upon review, we find some of the information at issue, which we have indicated, consists of CHRI that is confidential under section 411.083. Accordingly, the town must withhold the information we have indicated under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code.

Section 552.130 of the Government Code exempts 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 id.* § 552.130. We note section 552.130 is designed to protect the privacy of individuals. Thus, the requestor has a right of access to his own motor vehicle record information, and it may not be withheld from him under section 552.130. *See id.* § 552.023 (person or person's authorized representative has special right of access to records that contain information relating to the person that are protected from public disclosure by laws intended to protect that person's privacy interests); ORD 481 at 4 (privacy theories not implicated when individual requests information concerning himself). Accordingly, with the exception of the motor vehicle record information pertaining to the requestor, the town must withhold all audible and visible license plates, registration stickers, and driver's license information within the remaining recordings at issue under section 552.130 of the Government Code.

In summary, to the extent the requestor did not give the requisite information pursuant to section 1701.661(a) of the Occupations Code for the submitted body worn camera recordings at issue, our ruling does not reach such information and the town need not release it. The town must withhold the information we have indicated under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code. With the exception of the motor vehicle record information pertaining to the requestor, the town must withhold all audible and visible license plates, registration stickers, and driver's license information within the remaining recordings at issue under section 552.130 of the Government Code. The town must release the remaining information to this requestor.⁴

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->

⁴ As noted above, the requestor has a special right of access to some of the information being released in this instance. *See Gov't Code* § 552.023(a); ORD 481 at 4. Because such information is confidential with respect to the general public, if the town receives another request for this information from a different requestor, the town must again seek a ruling from this office.

[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/be

Ref: ID# 946576

Enc. Submitted documents

c: Requestor
(w/o enclosures)