



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 27, 2022

Ms. Audrea Hutson
Open Records
Williamson County Sheriff's Office
508 South Rock Street
Georgetown, Texas 78626

OR2022-39931

Dear Ms. Hutson:

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# 991572.

The Williamson County Sheriff's Office (the "sheriff's office") received a request for information related to a specified incident. You state you will redact dates of birth pursuant to Open Records Letter No. 2016-21706 (2016).¹ You claim some of the submitted information was not properly requested pursuant to section 1701.661 of the Occupations Code. You further claim portions of the submitted information are excepted from disclosure under sections 552.101, 552.1175, and 552.130 of the Government Code. We have considered your arguments and reviewed the submitted information.

Initially, we note the submitted information contains police 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(a) provides:

¹ Open Records Letter No. 2016-21706 authorizes the sheriff's office to withhold the dates of birth of public citizens under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a decision from this office.

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 of the Occupations Code, our ruling does not reach this information and it need not be released.² 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. This section 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 you have failed to demonstrate the any of the remaining information is highly intimate or embarrassing and not of legitimate public concern. Therefore, the sheriff’s office may not withhold any portion of the remaining information under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. Gov’t Code § 552.1175. Section 552.1175 applies to “a current or former member of the United States Army, Navy, Air Force, Coast Guard, or Marine Corps, an auxiliary service of one of those branches of the armed forces, or the Texas

² As we are able to make this determination, we need not address your remaining arguments against disclosure of this information.

military forces, as that term is defined by Section 437.001[.]” Gov’t Code § 552.1175(a)(15). Accordingly, to the extent the information we have marked pertains to an individual who is subject to section 552.1175(a) and who elects to restrict access to the information in accordance with section 552.1175(b), the sheriff’s office must withhold the information we have marked under section 552.1175 of the Government Code. Conversely, if the individual whose information is at issue is not subject to section 552.1175(a) or does not elect to restrict access to their information in accordance with section 552.1175(b), then the information at issue may not be withheld under section 552.1175 of the Government Code. However, we find you have failed to demonstrate the applicability of section 552.1175 of the Government Code to any portion of the remaining information at issue, and the sheriff’s office may not withhold any of the remaining information on that basis.

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. We note section 552.130 is designed to protect the privacy of individuals. Thus, the requestor has a right of access to her clients’ motor vehicle record information and it may not be withheld from her under section 552.130. *See* Gov’t Code § 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); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Accordingly, the sheriff’s office must withhold the motor vehicle information you have marked and all visible license plates and audible license plate numbers and states not belonging to the requestors’ clients in the remaining video recordings under section 552.130 of the Government Code.

In summary, as the body worn camera recordings at issue were not properly requested pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information and it need not be released. To the extent the information we have marked pertains to an individual who is subject to section 552.1175(a) of the Government Code and who elects to restrict access to the information in accordance with section 552.1175(b) of the Government Code, the sheriff’s office must withhold the information we have marked under section 552.1175 of the Government Code. The sheriff’s office must withhold the information you have marked and all visible license plates and audible license plate numbers and states not belonging to the requestors’ clients in the remaining video recordings under section 552.130 of the Government Code. The sheriff’s office must release the remaining information to this requestor.³

³ We note 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. Thus, if the sheriff’s office receives another request for the same information from a different requestor, the sheriff’s office must again seek a decision from this office.

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,

Tim Neal
Assistant Attorney General
Open Records Division

TN/jxd

Ref: ID# 991572

Enc. Submitted documents

c: Requestor
(w/o enclosures)