



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 15, 2017

Mr. Robert R. Ray
Assistant City Attorney
City of Longview
P.O. Box 1952
Longview, Texas 75606

OR2017-28507

Dear Mr. Ray:

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# 688796.

The Longview Police Department (the "department") received two requests for information pertaining to a specified accident from different requestors: the first on October 2, 2017 (the "first requestor"), and the second on October 10, 2017 (the "second requestor"). The department claims the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.147 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

Initially, we note the submitted information includes body worn camera recordings of department officers. 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 the following:

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). The second requestor does not give the requisite information under section 1701.661(a). As this requestor did not properly request the body worn camera recordings at issue pursuant to chapter 1701, our ruling does not reach these recordings regarding the second request, and the department is not required to release them to the second requestor. 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). We note the first requestor did give the requisite information under section 1701.661(a). Accordingly, we will address the department’s arguments to withhold the recordings at issue, as well as the remaining information, from this requestor.

The submitted information also contains court-filed documents that are subject to section 552.022(a)(17) of the Government Code, which provides the following:

Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

...

(17) information that is also contained in a public court record[.]

Gov’t Code § 552.022(a)(17). Although the department asserts the information subject to section 552.022(a)(17) is excepted from disclosure under section 552.108, this section is discretionary and does not make information confidential under the Act. *See* Open Records Decision No. 177 (1977) (governmental body may waive statutory predecessor to section 552.108); *see also* Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally). Therefore, the department may not withhold the information subject to section 552.022(a)(17) under section 552.108. However, sections 552.101 and 552.130 of the Government Code make information confidential under the Act. Accordingly, we will consider the applicability of these sections to the information at issue.

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 section 261.201(a) of the Family Code, which provides as follows:

[T]he following information is confidential, is not subject to public release under [the Act], and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

- (1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and
- (2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). Upon review, we find the submitted information was used or developed in an investigation under chapter 261. *See id.* §§ 101.003(a) (defining “child” for purposes of section 261.201), 261.001(1) (defining “abuse” for purposes of section 261.201). Thus, the information is within the scope of section 261.201 of the Family Code. The department does not indicate it has adopted a rule that governs the release of this type of information. Therefore, we assume no such rule exists. Given that assumption, the department must withhold the remaining information at issue under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.¹ *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute).

In summary, because the second requestor did not properly request the submitted body worn camera recordings pursuant to chapter 1701, our ruling does not reach the body worn camera recordings at issue regarding the second request, and the city is not required to release them to the second requestor. The department must withhold the remaining information at issue under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.

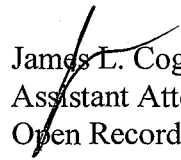
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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 http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

¹As our ruling is dispositive, we do not address the arguments of the department to withhold this information.

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,


James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tdw

Ref: ID# 688796

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)