



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 1, 2019

Mr. Eric C. Farrar
Counsel for the City of Humble
Olson & Olson, L.L.P.
2727 Allen Parkway, Suite 600
Houston, Texas 77019-2133

OR2019-05696

Dear Mr. Farrar:

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# 753141 (ORR# COHM 18-033).

The Humble Police Department (the "department"), which you represent, received a request for video recordings related to a specified incident. The department claims the submitted information is excepted from disclosure under sections 552.1175 and 552.130 of the Government Code.¹ We have considered the exceptions the department claims and reviewed the submitted information.

Initially, we note the submitted information includes 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 provides, in relevant part, the following:

¹We note the department did not comply with section 552.301 of the Government Code in requesting a ruling from this office. *See* Gov't Code § 552.301(b), (e). Nonetheless, because the exception the department claims can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

(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 recordings at issue, which we have noted, 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. 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 excepts 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. *See* Gov’t Code § 552.130. The department asserts the submitted audio and video recordings contain motor vehicle record information that is excepted from disclosure under section 552.130. Upon review, we find some of the submitted video recordings, which we have noted, contain 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 entire video recordings containing motor vehicle record information, which we have noted, under section 552.130 of the Government Code. *See* Open Records Decision No. 364 (1983). However, the remaining video recordings do not contain motor vehicle record information. Accordingly, the department may not withhold any of the remaining recordings under section 552.130 of the Government Code.

Some of the remaining information may be subject to section 552.1175 of the Government Code.² Section 552.1175 provides in part:

(a) This section applies only to:

²The 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).

(1) peace officers as defined by Article 2.12, Code of Criminal Procedure[.]

(b) Information that relates to the home address, home telephone number, emergency contact information, date of birth, or social security number of an individual to whom this section applies, or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

(1) chooses to restrict public access to the information; and

(2) notifies the governmental body of the individual's choice on a form provided by the governmental body, accompanied by evidence of the individual's status.

Gov't Code § 552.1175(a)(1), (b). Some of the remaining information relates to an officer of the department but the information is not held by the department in an employment capacity. As noted above, the department informs us it does not possess the technological capability to redact information from video files. Accordingly, if the officer whose information is at issue elects to restrict access to the information in accordance with section 552.1175(b), the department must withhold the entirety of the recording we noted under section 552.1175 of the Government Code. *See* ORD 364. Conversely, if the officer at issue does not elect to restrict access to the information in accordance with section 552.1175(b), the information we noted may not be withheld under section 552.1175.

In summary, the submitted body worn camera recordings were not properly requested pursuant to chapter 1701 of the Occupations Code and they need not be released. The department must withhold the entireties of the video recordings we noted under section 552.130 of the Government Code. If the officer whose information is at issue elects to restrict access to the information in accordance with section 552.1175(b), the department must withhold the entirety of the recording we noted under section 552.1175 of the Government Code. The department must release the remaining information.

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

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

Sincerely,

A handwritten signature in black ink, appearing to read "Claire Morris Sloan". The signature is fluid and cursive, with a long horizontal stroke at the end.

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/eb

Ref: ID# 753141

Enc. Submitted documents

c: Requestor
(w/o enclosures)