



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 1, 2019

Mr. Peter G. Smith
City Attorney
City of Richardson
P.O. Box 831078
Richardson, Texas 75083-1078

OR2019-11557

Dear Mr. Smith:

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# 762729 (File NO. P000364).

The Richardson Police Department (the "department") received a request for information pertaining to a specified incident. You state the department has released some information. We understand the department will withhold motor vehicle record information pursuant to section 552.130(c) of the Government Code and dates of birth pursuant to a previous determination issued in Open Records Letter No. 2017-00069 (2017).¹ You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.1175 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note some of the submitted information consists of a police officer's body worn camera recordings. Body worn cameras are subject to chapter 1701 of the Occupations

¹Section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). Open Records Letter No. 2017-00069 is a previous determination issued to the department authorizing it 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.

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:

(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 give the requisite information under section 1701.661(a). As the requestor did not properly request the body worn camera recordings at issue pursuant to chapter 1701, 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 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).

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. *See* Gov’t Code § 552.1175. Section 552.1175 applies, in part, to “peace officers as defined by Article 2.12, Code of Criminal Procedure[.]” *Id.* § 552.1175(a)(1). Section 552.1175 also encompasses a personal cellular telephone number, unless the cellular telephone service is paid for by a governmental body. *See* Open Records Decision No. 506 at 5-7 (1988). You state the information you marked pertains to an individual who is subject to section 552.1175(a)(1). Accordingly, to the extent the information at issue pertains to a peace officer who elects to restrict access to his marked information in accordance with section 552.1175(b), then with the exception of the information we have marked for release, the department must withhold the information you marked under section 552.1175 of the Government Code; however, to the extent the marked information consists of a cellular telephone number, the cellular telephone number may only be withheld if a governmental body does not pay for the cellular telephone service. Conversely, if the officer at issue does not elect to restrict access to his information in accordance with section 552.1175(b), the department may not withhold the information you marked under section 552.1175.

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

However, you have failed to demonstrate the applicability of section 552.1175 to any of the remaining information.

In summary, as the requestor did not properly request the body worn camera recordings at issue 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 at issue pertains to a peace officer who elects to restrict access to his marked information in accordance with section 552.1175(b), then with the exception of the information we have marked for release, the department must withhold the information you marked under section 552.1175 of the Government Code; however, to the extent the marked information consists of a cellular telephone number, the cellular telephone number may only be withheld if a governmental body does not pay for the cellular telephone service. 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,



Kelly McWethy
Assistant Attorney General
Open Records Division

KSM/mo

Ref: ID# 762729

Enc. Submitted documents

c: Requestor
(w/o enclosures)