



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 19, 2019

Ms. Catherine Zellers
City Attorney's Office
City of Weatherford
P.O. Box 255
Weatherford, Texas 76086

OR2019-36027

Dear Ms. Zellers:

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# 803894 (COW Records Center No. W001658).

The Weatherford Police Department (the "department") received a request for certain information pertaining to a specified accident. The department states it will withhold motor vehicle record information pursuant to section 552.130(c) of the Government Code and dates of birth pursuant to the previous determination issued in Open Records Letter No. 2018-01572 (2018).¹ The department claims the requestor did not properly request the submitted body worn camera recording pursuant to section 1701.661 of the Occupations Code. The department claims some of the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the department's arguments and reviewed the submitted information.

¹ Section 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. 2018-01572 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.

As previously noted, the submitted information includes a department police officer's body worn camera recording. 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:

(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). Although the department claims the requestor did not properly request the body worn camera recording at issue, we note, in this instance, the requestor provided the requisite information under section 1701.661(a) of the Occupations Code for the body worn camera recording. Accordingly, since the requestor properly requested the body worn camera recording at issue, we will consider the department's argument against disclosure of this information.

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 chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communication districts. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code are applicable to emergency 9-1-1 districts established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). These sections make the originating telephone numbers and addresses of 9-1-1 callers furnished by a service supplier confidential. *Id.* at 2. Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000. The department states the City of Weatherford is part of an emergency communication district established under section 772.318. The department states the information it has indicated under section 772.318 consists of the originating telephone number of a 9-1-1 caller furnished by a service supplier. Therefore, we agree the department must withhold the information it has indicated in Exhibits B and C under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. *See* Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A)

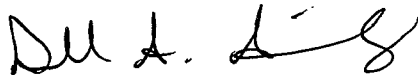
(governmental body must provide comments explaining why exceptions raised should apply to information requested). The department states Exhibit D relates to a closed criminal case that did not result in conviction or deferred adjudication. Based on the department's representation and our review, we find the department may withhold Exhibit D under section 552.108(a)(2) of the Government Code.²

In summary, the department must withhold the information it has indicated in Exhibits B and C under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. The department may withhold Exhibit D under section 552.108(a)(1) 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 <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,



Gerald Arismendez
Assistant Attorney General
Open Records Division

GAA/be

Ref: ID# 803894

Enc. Submitted documents

c: Requestor
(w/o enclosures)

² As our ruling is dispositive, we need not address the department's remaining argument against disclosure of this information.