



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 17, 2020

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

OR2020-01652

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# 807022 (Ref. Nos. W001676, W001682).

The City of Weatherford (the "city") received two requests from different requestors for specified information pertaining to a specified incident. You claim some of the submitted information was not properly requested pursuant to chapter 1701 of the Occupations Code. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.1085 of the Government Code. You also state you notified a named individual of the request for information and of the right to submit arguments to this office as to why the submitted information should not be released.¹ See Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the submitted arguments and reviewed the submitted information.

Initially, we note the submitted information includes city 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:

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 As of the date of this letter, we have not received any comments from the named individual explaining why any portion of the submitted information should not be released to the requestor.

- (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 second requestor does not give the requisite information under section 1701.661(a). As the second requestor did not properly request the body worn camera recording 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 552.101 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. Section 552.101 encompasses section 261.201(a) of the Family Code, which provides as follows:

(a) [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). You state the remaining information was used or developed in an investigation of alleged child abuse or neglect. Based on your representations and our review of the information at issue, we agree the remaining information is subject to section 261.201 of the Family Code. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of Family Code ch. 261); *see also id.* § 101.003(a) (defining “child” for purposes of this section as person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes). You state the city has not adopted rules that governs the release of this type of information. Accordingly, the remaining information is generally confidential pursuant to section

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

261.201(a) of the Family Code and must be withheld from the second requestor under section 552.101 of the Government Code on this basis.³

We note the first requestor is a representative of the United States Consumer Product Safety Commission (the “commission”). Section 261.201 provides information encompassed by subsection (a) may only be released to certain persons and entities under limited circumstances. *See id.* § 261.201(a). The first requestor has not demonstrated the commission falls within any category of persons or entities that are authorized to receive information made confidential by section 261.201(a). *See id.* § 261.201 (b)-(g) (listing entities authorized to receive information made confidential by section 261.201 (a)). Accordingly, the city must also withhold the remaining information from the first requestor under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.⁴

In summary, as the second 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. The city must withhold the remaining information from both requestors 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 <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,



Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/rm

³ As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information to the second requestor.

⁴ As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information to the first requestor.

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Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)