



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 31, 2020

Mr. Robert G. Schleier, Jr.
Counsel for the City of Kilgore
Law Office of Robert G. Schleier, Jr.
116 North Kilgore Street
Kilgore, Texas 75662

OR2020-03101

Dear Mr. Schleier:

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# 812227.

The Kilgore Police Department (the "department"), which you represent, received a request for information related to a specified car crash. The department states it is releasing some of the requested information. The department claims some of the submitted information is excepted from disclosure under sections 552.101 and 552.1175 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 a 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.

¹ Although the department cites to section 552.117 of the Government Code for portions of the submitted information, we note section 552.1175 of the Government Code is the proper exception to raise for information the department holds in a law enforcement capacity rather than in an employment capacity.

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 recording at issue was 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 552.101 of the Government Code exempts 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 chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communication districts. Section 772.118 of the Health and Safety Code is applicable to emergency 9-1-1 districts established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). This sections makes the originating telephone numbers and addresses of 9-1-1 callers furnished by a service supplier confidential. *Id.* at 2. Section 772.118 applies to an emergency communication district for a county with a population of more than two million. The department states it is part of an emergency communication district established under section 772.118 of the Health and Safety Code and informs us the telephone number it marked consists of the originating telephone number furnished by a 9-1-1 service supplier. Upon review, we conclude the department must withhold the telephone number it marked under section 552.101 of the Government Code in conjunction with section 772.118 of the Health and Safety Code.

Section 552.1175 of the Government Code provides in part:

(a) This section applies only to:

(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, which the department marked, relates to an officer of the department but the information is not held by the department in an employment capacity. The department indicates the cellular telephone service at issue is not paid for by a governmental body. *See* Open Records

Decision No. 506 at 5-6 (1988) (section 552.117 not applicable to cellular telephone numbers paid for by governmental body and intended for official use). Accordingly, if the officer at issue elects to restrict access to the marked information in accordance with section 552.1175(b), the department must withhold the marked information under section 552.1175 of the Government Code. Conversely, if the officer at issue does not elect to restrict access to the information in accordance with section 552.1175(b), then the marked information may not be withheld under section 552.1175.

We note some of the remaining information is subject to section 552.130 of the Government Code.² Section 552.130 provides 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. We note section 552.130 protects personal privacy. Accordingly, the requestor has a right of access to his client's motor vehicle record information under section 552.023 of the Government Code and any such information may not be withheld from this requestor under section 552.130. *See id.* § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Accordingly, to the extent the motor vehicle record information we marked does not belong to the requestor's client, the department must withhold the motor vehicle record information we marked under section 552.130 of the Government Code.

In summary, the submitted body worn camera recording was not properly requested pursuant to chapter 1701 of the Occupations Code and it need not be released. The department must withhold the telephone number it marked under section 552.101 of the Government Code in conjunction with section 772.118 of the Health and Safety Code. If the officer at issue elects to restrict access to the marked information in accordance with section 552.1175(b), the department must withhold the information it marked under section 552.1175 of the Government Code. To the extent the motor vehicle record information we marked does not belong to the requestor's client, the department must withhold the motor vehicle record information we marked under section 552.130 of the Government Code. The department must release the remaining information.

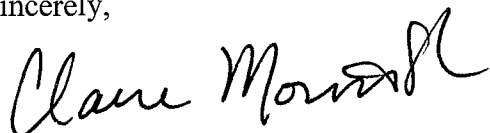
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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

² The 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).

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,

A handwritten signature in black ink, appearing to read "Claire Morris Sloan". The signature is written in a cursive, flowing style.

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/gw

Ref: ID# 812227

Enc. Submitted documents

c: Requestor
(w/o enclosures)