



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 18, 2020

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

OR2020-16302

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# 833774 (ID# W001943).

The City of Weatherford (the "city") received a request for a variety of information pertaining to a specified motor vehicle accident. The city states it has released the accident report to the requestor pursuant to section 550.065 of the Transportation Code. *See* Transp. Code § 550.065(c) (providing for release of accident report to person or entity listed under this subsection). The city informs us it will withhold certain motor vehicle information pursuant to section 552.130 of the Government Code.¹ The city claims portions of the submitted information are excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions the city claims and reviewed the submitted information.

Initially, we note the submitted information includes a city 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(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:

¹Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 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).

- (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 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 encompasses information made confidential by other statutes, such as 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.

You state the city is part of an emergency communication district established under section 772.318 of the Health and Safety Code. You seek to withhold the originating telephone number of a 9-1-1 caller, and state the information at issue in Exhibit B was furnished by a service supplier. Accordingly, the city must withhold the telephone number you marked in Exhibit B under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. You also assert the audio recording submitted as Exhibit C contains the originating phone number of a 9-1-1 caller. Upon review, however, we note the phone number contained in the submitted audio recording in Exhibit C was provided directly by the 9-1-1 caller at issue. Thus, we find no portion of the submitted audio recording consists of the originating telephone number of a 9-1-1 caller that was furnished by a 9-1-1 service supplier. Accordingly, no portion of the submitted audio recording in Exhibit C may be withheld under section 552.101 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

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

apply to information requested). You state the dash cam and in-car video recordings submitted as Exhibit D relate to a closed criminal investigation that did not result in a conviction or deferred adjudication. Based on this representation and our review, we agree section 552.108(a)(2) is applicable to the dash cam and in-car video recordings submitted as Exhibit D, and they may be withheld on this basis.

In summary, as the 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. The city must withhold the telephone number you marked in Exhibit B under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. The dash cam and in-car video recordings submitted as Exhibit D may be withheld under section 552.108(a)(2). The remaining information must be released.

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,

Michael Pearle
Assistant Attorney General
Open Records Division

MP/rm

Ref: ID# 833774

Enc. Submitted documents

c: Requestor
(w/o enclosures)