



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 18, 2020

Mr. Brandon Dyson  
Assistant City Attorney  
City of San Angelo  
72 West College Avenue  
San Angelo, Texas 76903

OR2020-20647

Dear Mr. Dyson:

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# 840369 (P001166-052620).

The City of San Angelo (the "city") received a request for information pertaining to a specified incident.<sup>1</sup> We understand the city has released some of the requested information. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, section 552.301(e)(1)(D) of the Government Code states a governmental body asking for an attorney general decision must, within fifteen business days of receiving a request, provide the attorney general with "a copy of the specific information requested, *or submit representative samples of information if a voluminous amount of information was requested.*" Gov't Code § 552.301(e)(1)(D) (emphasis added). We note you have submitted a voluminous amount of information consisting of over eight hours of video

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<sup>1</sup> We note the city asked for and received clarification regarding this request. See Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information); *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

recordings rather than a representative sample. We have identified and reviewed a representative sample of the voluminous information submitted.<sup>2</sup>

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. This section encompasses information made confidential by other statutes. Section 1701.661(f) of the Occupations Code provides, in relevant part:

A law enforcement agency may not release any portion . . . of a recording involving the investigation of conduct that constitutes a misdemeanor punishable by fine only and does not result in arrest, without written authorization from the person who is the subject of that portion of the recording or, if the person is deceased, from the person’s authorized representative.

Occ. Code § 1701.661(f). You assert the submitted video recordings should be withheld under section 1701.661(f) of the Occupations Code. Upon review, however, we find you have failed to demonstrate the submitted information is confidential under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code, and the city may not withhold it on this basis.

We note some of the remaining information may be subject to section 552.1175 of the Government Code. Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, 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.<sup>3</sup> *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 is also applicable to personal pager and cellular telephone numbers, provided the cellular telephone service or pager service is not paid for by a governmental body. *See* Open Records Decision No. 506 at 5-6 (1988) (statutory predecessor to section 552.117 of the Government Code not applicable to cellular telephone numbers provided and paid for by governmental body and intended for official use). Upon review, to the extent a governmental body does not pay for the cellular telephone service, we find the city must withhold the discernible cellular telephone numbers in the submitted video recordings under section 552.1175 if the individuals to whom this information pertains are currently licensed peace officers and elect to restrict access to their information in accordance with section 552.1175(b) of the Government Code. However, the city may not withhold the information at issue under section 552.1175 if the individuals are not currently licensed peace officers, no elections are made, a governmental body pays for the cellular telephone service.

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<sup>2</sup> To the extent the city identifies confidential information subject to a provision not addressed in this ruling, the city should contact the Open Government Hotline.

<sup>3</sup> The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Section 552.130 of the Government Code 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. Accordingly, the city must withhold the audible and discernable driver's license numbers, license plates, license plate numbers, and registration stickers in the submitted video recordings under section 552.130 of the Government Code.

In summary, to the extent a governmental body does not pay for the cellular telephone service, the city must withhold the discernible cellular telephone numbers in the submitted video recordings under section 552.1175 if the individuals to whom this information pertains are currently licensed peace officers and elect to restrict access to their information in accordance with section 552.1175(b) of the Government Code. The city must withhold the audible and discernable driver's license numbers, license plates, license plate numbers, and registration stickers in the submitted video recordings under section 552.130 of the Government Code. The city 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,

Jennifer Copeland  
Assistant Attorney General  
Open Records Division

JC/jm

Ref: ID# 840369

Enc. Submitted documents

c: Requestor  
(w/o enclosures)