



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 3, 2020

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

OR2020-30169

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# 861470.

The Kilgore Police Department (the "department"), which you represent, received a request for information relating to a specified incident. You claim some of 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.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information made confidential by other statutes. 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) of the Occupations Code provides the following:

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). In this instance, the instant request includes the information required by section 1701.661(a) with respect to the requested body worn camera recordings. However, section 1701.661(f) of the Occupations Code provides, in part, the following:

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.

Id. § 1701.661(f). You state the submitted body worn camera recordings pertain to an investigation of conduct that constitutes a misdemeanor punishable by fine only and which did not result in an arrest. You also state the department has not received written authorization for release from all of the subjects of the recordings at issue. *See id.* Accordingly, we find the department must withhold the body worn camera recordings under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code.

Section 552.101 of the Government Code also encompasses chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communication districts. Section 772.318 of the Health and Safety Code applies to an emergency communication district for a county with a population of more than 20,000 and makes confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a 9-1-1 service supplier. *See Open Records Decision No. 649 (1996)*. You indicate the department is part of an emergency communication district that is subject to section 772.318 of the Health and Safety Code. Accordingly, the department must withhold the telephone number you have marked under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code if it consists of the originating telephone number furnished by a 9-1-1 service supplier. Conversely, if the marked telephone number does not consist of an originating telephone number provided by a 9-1-1 service supplier, it may not be withheld under section 552.101 in conjunction with section 772.318. However, the department marked a 9-1-1 caller's name. We note only the originating addresses and telephone numbers of 9-1-1 callers are confidential under chapter 772 of the Health and Safety Code. Accordingly, the department may not withhold the caller's name under section 552.101 on this basis.

In summary, the department must withhold the body worn camera recordings under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code. The department must withhold the telephone number it marked under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code if it consists of the originating telephone number furnished by a 9-1-1 service supplier. 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,

Paige Thompson
Assistant Attorney General
Open Records Division

PT/be

Ref: ID# 861470

Enc. Submitted documents

c: Requestor
(w/o enclosures)