



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 7, 2022

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

OR2022-10289

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# 940582.

The Kilgore Police Department (the "department"), which you represent, received a request for information pertaining to a specified motor vehicle accident. You state the department has released some information to the requestor. You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we understand the department has redacted portions of the submitted information under section 552.101 of the Government Code in conjunction with common-law privacy. Pursuant to section 552.301 of the Government Code, a governmental body that seeks to withhold requested information must submit to this office a copy of the information, labeled to indicate which exceptions apply to which parts of the copy, unless the governmental body has received a previous determination for the information at issue. *See* Gov't Code § 552.301(a), (e)(1)(D). You do not assert, nor does our review of the records indicate, the department has been authorized to withhold the information at issue without seeking a ruling from this office. *See id.* § 552.301(a); *see also* Open Records Decision 673 (2000). As such, information must be submitted in a manner that enables this office to determine whether the information comes within the scope of an exception to disclosure. In this instance, we are unable to discern the nature of the redacted information. Consequently, the department has failed to comply with section 552.301 of the Government Code as to this information, and this information is presumed public under section 552.302 of the Government Code. Accordingly, the department must release the redacted information, which we have marked, pursuant to section 552.302 of the Government Code.

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. This section encompasses information made confidential by other statutes. We note the submitted information contains recordings from police officers’ body worn cameras, which are subject to chapter 1701 of the Occupations Code. Section 1701.661(a) of the Occupations Code states the information a requestor must provide when seeking a body worn camera recording. *See* Occ. Code § 1701.661(a). We note the requestor provides the requisite information for the body worn camera recordings at issue. However, section 1701.661(f) 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.

*Id.* § 1701.661(f). You state the submitted recordings pertain to the investigation of conduct that constitutes a misdemeanor punishable by fine only and which did not result in an arrest. You further state the department has not received a written authorization for release from all of the subjects of the recordings. *See id.* Accordingly, the submitted body worn camera recordings are confidential and the department must withhold them in their entireties 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 information made confidential by 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). We understand the department is part of an emergency communication district that is subject to section 772.318 of the Health and Safety Code. You state the information you marked consists of an originating telephone number and address of a 9-1-1 caller. Accordingly, to the extent the telephone number and address you marked were supplied by a 9-1-1 service supplier, the department must withhold this information under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. Conversely, to the extent the information at issue was not supplied by a 9-1-1 service supplier, the department may not withhold this information under section 552.101 on the basis of section 772.318.

Section 552.130 of the Government Code exempts from public disclosure information relating to a motor vehicle operator’s or driver’s license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country. *See* Gov’t Code § 552.130. Accordingly, the department must withhold the motor vehicle record information you marked and the additional information we have marked under section 552.130 of the Government Code.

In summary, the department must release the redacted information we have marked pursuant to section 552.302 of the Government Code. The department must withhold the submitted body worn camera recordings under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code. To the extent the telephone number and address you marked were supplied by a 9-1-1 service supplier, the department must withhold this information under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. The department must withhold the motor vehicle record information you marked and the additional information we have 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 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,

Blake Brennan  
Assistant Attorney General  
Open Records Division

BBX/jxd

Ref: ID# 940582

Enc. Submitted documents

c: Requestor  
(w/o enclosures)