



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 1, 2022

Mr. Justin Smith  
Records Manager  
North Richland Hills Police Department  
P.O. Box 820609  
North Richland Hills, Texas 76182-0609

OR2022-15653

Dear Mr. Smith:

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# 951038 (W009558-030933).

The North Richland Hills Police Department (the "department") received a request for information pertaining to a specified incident. We understand the department will withhold insurance policy numbers under section 552.136(c) of the Government Code.<sup>1</sup> You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.1175, and 552.130 of the Government Code.<sup>2</sup> We have considered the exception you claim and reviewed the submitted information.

---

<sup>1</sup> Section 552.136 of the Government Code authorizes a governmental body to redact, without the necessity of requesting a decision from this office, access device numbers subject to section 552.136(b). *See* Gov't Code § 552.136(c); *see also id.* § 552.136(d)-(e) (requestor may appeal governmental body's decision to withhold information under section 552.136(c) to attorney general and governmental body withholding information pursuant to section 552.136(c) must provide certain notice to requestor).

<sup>2</sup> Although the department also cites to section 552.117 of the Government Code for a portion 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. We note the department did not comply with section 552.301(b) of the Government Code in requesting a ruling from this office with respect to section 552.117. *See* Gov't Code § 552.301(b). Nonetheless, because section 552.1175 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

Initially, we note some of the submitted information consists of officers' body worn camera recordings. 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:

- (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 recordings at issue pursuant to chapter 1701, our ruling does not reach this information and it need not be released.<sup>3</sup> 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 excepts 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 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 state the City of North Richland Hills is part of an emergency communication district that is subject to section 772.318 of the Health and Safety Code and marked information you seek to withhold. We conclude the department must withhold the information 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 an originating telephone number of a 9-1-1 caller that was furnished by a 9-1-1 service supplier. If the information you have marked does not consist of an originating telephone number that was provided by a 9-1-1 service supplier, then the department may not withhold the information you have marked under section 552.101 on that basis.

---

<sup>3</sup> As we are able to make this determination, we need not address the arguments against disclosure of this information.

Section 552.101 of the Government also encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Upon review, we find you have not demonstrated any of the remaining information at issue is highly intimate or embarrassing and not of legitimate public concern. Thus, the department may not withhold any portion of the remaining information under section 552.101 in conjunction with common-law privacy.

Section 552.108(a)(1) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Section 552.108 may be invoked by the proper custodian of information relating to a pending investigation or prosecution of criminal conduct. *See Open Records Decision No. 474* at 4-5 (1987). Where a governmental body has custody of information that would otherwise qualify for exception under section 552.108 as information relating to the pending case of another law enforcement agency, the custodian of the records may withhold the information if it provides this office with a demonstration the information relates to the pending case and a representation from the other law enforcement agency that it wishes to have the information withheld.

The department states some of the remaining information at issue pertains to an investigation of the Tarrant County Sheriff’s Office (the “sheriff’s office”). However, the department has not provided our office with a representation from the sheriff’s office objecting to the release of the information at issue. Therefore, we conclude the department has failed to demonstrate the applicability of section 552.108(a)(1) to the information at issue, and the department may not withhold any portion of the remaining information on that basis.

Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, social security number, date of birth, 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>4</sup> *See Gov’t Code § 552.1175*. Section 552.1175 applies, in part, to “current or honorably retired peace officers as defined by Article 2.12, Code of Criminal Procedure[.]” *See id.* § 552.1175(a)(1); *see also id.* § 552.003(1-b) (defining “honorably

---

<sup>4</sup> 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).

retired” for purposes of the Act). We note section 552.1175 is also applicable to personal cellular telephone numbers, provided the cellular telephone 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 not applicable to cellular telephone numbers paid for by governmental body and intended for official use). Upon review, we find the department must withhold the cellular telephone number you have indicated under section 552.1175 if the individual to whom this information pertains is a current or honorably retired peace officer as defined by Article 2.12 of the Code of Criminal Procedure who elects to restrict access to this information in accordance with section 552.1175(b) of the Government Code and a governmental body does not pay for the cellular telephone service. However, the department may not withhold the information at issue under section 552.1175 if the individual is not a current or honorably retired peace officer as defined by Article 2.12 of the Code of Criminal Procedure, no election is made, or a governmental body pays for the cellular telephone service.

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. We note section 552.130 protects personal privacy. Accordingly, the requestor has a right of access to her client’s motor vehicle record information under section 552.023 of the Government Code and it may not be withheld from her 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). Therefore, with the exception of the motor vehicle record information belonging to the requestor’s client, the department must withhold the discernable and audible motor vehicle record information in the remaining video recordings under section 552.130 of the Government Code.

In summary, as the requestor did not properly request the body worn camera recordings at issue pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information and it need not be released. The department must withhold the information 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 an originating telephone number of a 9-1-1 caller that was furnished by a 9-1-1 service supplier. The department must withhold the cellular telephone number you have indicated under section 552.1175 if the individual to whom this information pertains is a current or honorably retired peace officer as defined by Article 2.12 of the Code of Criminal Procedure who elects to restrict access to this information in accordance with section 552.1175(b) of the Government Code and a governmental body does not pay for the cellular telephone service. With the exception of the motor vehicle record information belonging to the requestor’s client, the department must withhold the discernable and audible motor vehicle record information in the remaining video recordings 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,

Jennifer Copeland  
Assistant Attorney General  
Open Records Division

JC/jxd

Ref: ID# 951038

Enc. Submitted documents

c: Requestor  
(w/o enclosures)