



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 19, 2022

Ms. Holly Voth
Assistant City Attorney
City of San Angelo
72 West College Avenue
San Angelo, Texas 76903

OR2022-28730

Dear Ms. Voth:

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# 972318 (City File No. P004156-062722).

The San Angelo Police Department (the "department") received a request for information pertaining to a specified incident. We understand the department has released some information to the requestor. The department claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception the department claims and reviewed the submitted information.

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. The submitted information consists of video recordings from the body worn video cameras of department officers. 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 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 requestor did not provide the requisite information under section 1701.661(a) for some of the submitted body worn camera recordings, which we indicated. As these body worn camera recordings were not properly requested pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information and they need not be released.¹ We note, 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). As the requestor provided the requisite information under section 1701.661(a) for the remaining body worn camera recordings, we will address your argument for this information. We note, however, section 1701.661(f) provides, in relevant part:

A law enforcement agency may not release any portion of a recording made in a private space . . . 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). Upon review, we find portions of the body worn camera recordings at issue were made in a private space. *See id.* § 1701.651(3) (defining “private space” for purposes of section 1701.661(f)). The department states it has not received permission for release from the subjects of the portions of the recordings made in the private space at issue. *See id.* § 1701.661(f). Accordingly, we find the department must withhold the portions of the body worn camera recordings made in a private space, which we indicated, under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code. However, we find none of the remaining information at issue is confidential under section 552.101 in conjunction with section 1701.661(f), and the department may not withhold it on this basis.

Section 552.1175 protects the home address, home telephone number, emergency contact information, date of birth, 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.² *See Gov’t Code* § 552.1175. We note, for purposes of section 552.1175, “family member” means a spouse, minor child, or adult child who resides in the person’s home. *Cf. id.* § 552.117(c). 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). Accordingly, to the extent the information we indicated relates to an individual subject to section 552.1175 who elects to restrict access to their information in accordance with section 552.1175(b), the department must withhold the information we indicated under section 552.1175 of the Government Code.

We note some of the remaining information is subject to section 552.130 of the Government Code. Section 552.130 of the Government Code provides information relating to a motor

¹As we are able to make this determination, we need not address your arguments against disclosure of the information at issue.

² 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).

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 department must withhold all visible and audible license plates, license plate numbers, and vehicle registration stickers within the remaining information under section 552.130 of the Government Code.

In summary, as some of the body worn camera recordings, which we indicated, were not properly requested 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 we indicated under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code. To the extent the information we indicated relates to an individual subject to section 552.1175 of the Government Code who elects to restrict access to their information in accordance with section 552.1175(b) of the Government Code, the department must withhold the information we indicated under section 552.1175 of the Government Code. The department must withhold all visible and audible license plates, license plate numbers, and vehicle registration stickers within the remaining information 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,

Pearlie Gault
Assistant Attorney General
Open Records Division

PG/mo

Ref: ID# 972318

Enc. Submitted documents

c: Requestor
(w/o enclosures)