



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 13, 2019

Ms. Shelby Percy  
Counsel for the City of Red Oak  
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.  
500 North Akard, Suite 1800  
Dallas, Texas 75201

OR2019-15965

Dear Ms. Percy:

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# 770646 (ORR# 107203).

The Red Oak Police Department (the "department"), which you represent, received a request for recordings pertaining to two specified addresses at a specified time.<sup>1</sup> The department claims the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception.

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 other statutes. The submitted information consists of body worn camera recordings of police officers. Body worn cameras are subject to chapter 1701 of the Occupations Code. Section 1701.661 of the Occupations Code reads, in part, as follow:

---

<sup>1</sup>The department sought and received clarification of the information requested. *See* Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (if governmental entity, acting in good faith, requests clarification of unclear or over-broad request, ten-day period to request attorney general ruling is measured from date request is clarified).

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.

...

(f) 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[.]

Occ. Code § 1701.661(a), (f). The department represents the requestor provided the information required by section 1701.661(a) of the Occupations Code for release of the body worn camera recordings at issue. The recordings at issue reflect they were required to be made by law or the policies of the department and relate to a law enforcement purpose. *See id.* § 1701.661(h). Further, the department has failed to demonstrate the recordings could not be used as evidence in a criminal prosecution. *See id.* § 1701.661(d) (information “that is or could be used as evidence in a criminal prosecution is subject to the requirements of [the Act.]”). We also have no indication the body worn camera recordings document an incident that involves the use of deadly force by an officer or relates to an administrative or criminal investigation of an officer. *See id.* § 1701.660(a). The department asserts the submitted recordings are confidential under section 1701.661(f) because there were made in a private space. However, we find none of the recordings were made in a private space for purposes of section 1701.661(f). *See id.* § 1701.661(f); *see also id.* 1701.651(3) (defining “private space” for purposes of section 1701.661(f)). Therefore, we conclude the department has failed to establish any of the submitted information is confidential under section 1701.661(f), and it may not withhold the recordings under section 552.101 on that ground.

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.<sup>2</sup> *See Gov’t Code* § 552.130. Nonetheless, section 552.130 protects personal privacy and section 552.023(a) of the Government Code provides a governmental body may not deny access to a person or a person’s representative to whom

---

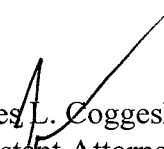
<sup>2</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987).*

the information relates on the grounds that the information is considered confidential under privacy principles. *Id.* § 552.023(a). Therefore, the department must withhold the visible license plate under section 552.130 of the Government Code. However, if this information pertains to the requestor, the department must release it pursuant to section 552.023 of the Government Code. *See id.* 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 [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/eb

Ref: ID# 770646

Enc. Submitted documents

c: Requestor  
(w/o enclosures)