



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 17, 2019

Mr. Thomas Royce Hansen
Assistant City Attorney
City of Fort Worth
200 Texas Street, 3rd Floor
Fort Worth, Texas 76102

OR2019-29287

Dear Mr. Hansen:

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# 791943 (PIR No. W088483).

The Fort Worth Police Department (the "department") received a request for twenty-one categories of information pertaining to a specified incident. You state you released some information to the requestor. You claim 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 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 department police officers. Body worn cameras 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. Occ. Code § 1701.661(a). We note the requestor provided the requisite information for the body worn camera recordings at issue. We understand the recordings 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, we understand the recordings are or could be used as evidence in a criminal prosecution. *See id.* § 1701.661(d). 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). We note the body worn camera recordings were not made in a private space for the 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)). 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 body worn camera recordings involve an investigation of conduct that constitutes a misdemeanor punishable by fine only and did not result in arrest. Upon review, we note the requestor’s client is one of the subjects of the recordings. Thus, we find the requestor’s client has consented to release of the recordings to the requestor for the purposes of subsection (f) and the department may not withhold the entireties of the recordings under section 552.101 in conjunction with section 1701.661(f). However, portions of the recordings involve other subjects and, based on your representations, we understand you have not received written authorization for release from the remaining subjects. Accordingly, the department must withhold the portions of the recordings that involve the remaining subjects of the recordings, which we have indicated, under section 552.101 in conjunction with section 1701.661(f).

We note portions of the remaining information are subject to section 552.130 of the Government Code.¹ Section 552.130 provides information relating to a motor vehicle operator’s or driver’s license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release. Gov’t Code § 552.130(a). We note, however, because section 552.130 is designed to protect the privacy of individuals, the requestor has a right of access to his client’s motor vehicle record information under section 552.023 of the Government Code and it may not be withheld from him under section 552.130. *See id.* § 552.023(a) (person or person’s authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person’s privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Accordingly, with the exception of the information pertaining to the requestor’s client, the department must withhold any visible license plates, vehicle registration stickers, and driver’s licenses, as well as any audible license plate and driver’s license numbers, under section 552.130.

In summary, the department must withhold the portions of the recordings we have indicated that involve subjects of the recordings other than the requestor’s client under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code. With the exception of the information pertaining to the requestor’s

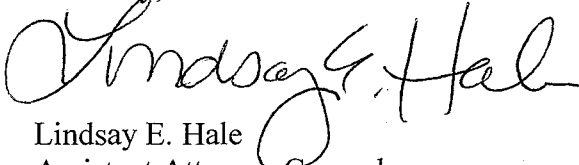
¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

client, the department must withhold from the remaining information any visible license plates, vehicle registration stickers, and driver's licenses, as well as any audible license plate and driver's license numbers, under section 552.130 of the Government Code. The department must release the remaining information.²

Finally, although you request a previous determination permitting the department to withhold certain information under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code without the necessity of requesting a decision from this office under section 552.301 of the Government Code, we decline to issue one at this time. *See* Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). Accordingly, this letter ruling is limited to the particular records 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 records or 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,



Lindsay E. Hale
Assistant Attorney General
Open Records Division

LH/eb

Ref: ID# 791943

Enc. Submitted documents

c: Requestor
(w/o enclosures)

² We note the information being released includes information that may be confidential with respect to the general public. *See* Occ. Code § 1701.661(f). Accordingly, if the department receives another request for this information from an individual other than this requestor or his client, the department must again seek a ruling from this office.