



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 29, 2020

Ms. Nena Chima-Tetteh  
Assistant City Attorney  
City of Arlington  
Mail Stop 04-0200  
Post Office Box 1065  
Arlington, Texas 76004-1065

OR2020-02760

Dear Ms. Chima-Tetteh:

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# 808684 (PD Ref. No. 90615).

The Arlington Police Department (the "department") received a request for information pertaining to a specified traffic accident involving the requestor's client. You state you have released some information, including the crash report to this requestor pursuant to section 550.065(c) of the Transportation Code. *See* Transp. Code § 550.065(c) (providing for release of accident report to person or entity listed under this subsection). You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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). The department states Exhibit B pertains to an active criminal prosecution or investigation. Based upon this representation, we conclude the release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of*

*Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref'd n. r. e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, the department may withhold Exhibit B under section 552.108(a)(1) of the Government Code.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *See* Gov’t Code § 552.101. This section encompasses information made confidential by other statutes. 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. *See* Occ. Code § 1701.661(a). In this instance, the requestor provided the information required by section 1701.661(a) of the Occupations Code for release of the body worn camera recordings. 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 of, if the person is deceased, from the person’s authorized representative.

*Id.* § 1701.661(f). You state Exhibit C consists of body worn camera recordings involving an investigation of conduct that constitutes a misdemeanor punishable by fine only and which did not result in arrest. You further state the department does not have permission for release from all the subjects of the recordings at issue. *See id.* Accordingly, we find 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. However, we note the remaining recordings consist of dashboard camera video recordings and a 9-1-1 audio recording. This information does not consist of body worn camera recordings and thus, the remaining information is not subject to chapter 1701 of the Occupations Code. Accordingly, we will consider whether the remaining information is otherwise excepted under the Act.

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>1</sup> *See* Gov’t Code § 552.130. We note section 552.130 protects personal privacy. Therefore, the requestor has a right of access to her client’s motor vehicle record information pursuant to section 552.023 of the Government Code and it may not be withheld from her under section 552.130. *See id.* § 552.023(a) (“person or person’s authorized representative has a special right of access, beyond right of general public, to information held by governmental body that relates to person and that is protected from public disclosure by laws intended to protect that person’s privacy interests); Open

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<sup>1</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).

Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Thus, with the exception of the motor vehicle record information belonging to the requestor's client, the department must withhold the audible or visible license plates in the remaining video recordings under section 552.130 of the Government Code.

In summary, the department may withhold Exhibit B under section 552.108(a)(1) 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. With the exception of the motor vehicle record information belonging to the requestor's client, the department must withhold the audible or visible license plates 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,



D. Michelle Case  
Assistant Attorney General  
Open Records Division

DMC/gw

Ref: ID# 808684

Enc. Submitted documents

c: Requestor  
(w/o enclosures)