



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 10, 2020

Ms. Sherry Phelps Vital
Assistant City Attorney
City of Port Arthur
P.O. Box 1089
Port Arthur, Texas 77641-1089

OR2020-03909

Dear Ms. Vital:

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# 810714.

The Port Arthur Police Department (the "department") received a request for any body-worn camera recording pertaining to a specified accident. The department claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception 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 recordings from police officers' body worn cameras. Section 1701.661(a) of the Occupations Code provides the information a requestor must provide when seeking a body worn camera recording. *See* Occ. Code § 1701.661(a). The requestor provided the requisite information for the body worn camera recordings at issue. The submitted recordings reflect they were required to be made by the law or the policies of the department and relate to a law enforcement purpose. *See id.* § 1701.661(h). However, subsections 1701.661(c) and 1701.661(d) of the Occupations Code read as follows:

(c) Except as provided by Subsection (d), information recorded by a body worn camera and held by a law enforcement agency under this subchapter is not subject to the requirements of Section 552.021, Government Code.

(d) Information that is or could be used as evidence in a criminal prosecution is subject to the requirement of Section 552.021, Government Code.

Id. § 1701.661(c)-(d). Upon review, we find the department has failed to demonstrate the body worn camera recordings at issue could not be used as evidence in a criminal prosecution. *See id.* § 1701.661(d). Therefore, we conclude the recordings at issue are not confidential under section 1701.661(c) of the Occupations Code and the department may not withhold them under section 552.101 of the Government Code on that basis.

Section 552.101 of the Government Code 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 the *Industrial Foundation* decision. *Id.* at 683. This office has found personal financial information not relating to the financial transaction between an individual and a governmental body is excepted from required public disclosure under common-law privacy. *See* Open Records Decision Nos. 600 (1992), 545 (1990). Upon review, we find the proof of automobile insurance card that is visible in the submitted recordings satisfies the standard articulated by the Texas Supreme Court in the *Industrial Foundation* decision. Accordingly, the department must withhold the visible proof of automobile insurance card under section 552.101 of the Government Code in conjunction with common-law privacy.

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.¹ *See* Gov't Code § 552.130. The department must withhold the discernable driver's license numbers and license plates under section 552.130 of the Government Code.

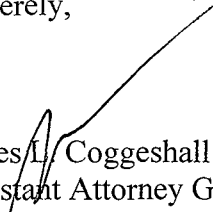
In summary, the department must withhold the visible proof of automobile insurance card under section 552.101 of the Government Code in conjunction with common-law privacy. The department must also withhold the discernable driver's license numbers and license plates under section 552.130 of the Government 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.

¹ 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).

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/mo

Ref: ID# 810714

Enc. Submitted documents

c: Requestor
(w/o enclosures)