



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 6, 2020

Ms. Sherry Phelps Vital
Assistant City Attorney
City of Port Arthur
P.O. Box 1089
Port Arthur, Texas 77641-8125

OR2020-07218

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# 815467 (COPA ID No. 19-067).

The Port Arthur Police Department (the "department") received a request for seven categories of information pertaining to a specified accident. The department states it has released some information to the requestor, including the accident report pursuant to section 550.065 of the Transportation Code. *See* Transp. Code § 550.065(c) (providing for release of accident report to person or entity listed under this subsection). 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. This section encompasses information made confidential by other statutes. The submitted information includes recordings from law enforcement officers' body worn cameras. 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). We note the requestor provided the requisite information for the body worn camera recordings at issue. 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). The department states the submitted body worn camera recordings pertain to the investigation of conduct that constitutes a misdemeanor punishable by fine only and which did not result in an arrest. Additionally, the department states it has not received written authorization for release from all of 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 information does not consist of body worn camera recordings. Therefore, the remaining information is not subject to section 1701.661 of the Occupations Code and the department may not withhold any of it under section 552.101 of the Government Code on that basis.

We note some of the remaining information is subject to section 552.130 of the Government Code.¹ 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. *See Gov't Code* § 552.130. We note section 552.130 protects personal privacy. Accordingly, the requestor has a right of access to her client's motor vehicle record information under section 552.023 of the Government Code and it may not be withheld from her under section 552.130. *See id.* § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); ORD 481 at 4 (privacy theories not implicated when individuals request information concerning themselves). Accordingly, with the exception of the requestor's client's information, the department must withhold all audible and visible license plate information in the remaining information under section 552.130 of the Government Code.

In summary, 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 requestor's client's information, the department must withhold all audible and visible license plate information in the remaining information under section 552.130 of the Government Code. The department must release the remaining information.²

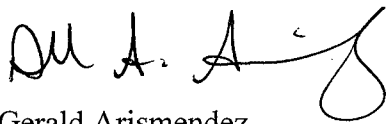
¹ The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See Open Records Decision Nos.* 481 (1987), 480 (1987), 470 (1987).

² As previously noted, the requestor has a right of access to some of the information being released in this instance. *See Gov't Code* § 552.023(a); ORD 481 at 4. If the department receives another request for this information from an individual without such a right of access, we note section 552.130(c) of the Government Code allows a governmental body to react the information described in section 552.130(a) without the necessity of seeking a decision from the attorney general. *See Gov't Code* § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 553.130(e). *See id.* § 552.130(d), (e).

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,

A handwritten signature in black ink, appearing to read "Gerald Arismendez", with a stylized flourish at the end.

Gerald Arismendez
Assistant Attorney General
Open Records Division

GAA/gw

Ref: ID# 815467

Enc. Submitted documents

c: Requestor
(w/o enclosures)