



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 22, 2020

Ms. Lizbeth Islas Plaster  
City Attorney  
City of Lewisville  
P.O. Box 299002  
Lewisville, Texas 75029-9002

OR2020-11416

Dear Ms. Plaster:

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# 823701 (Reference No. P036507-013020).

The City of Lewisville (the "city") received a request for certain information pertaining to a specified accident involving the requestor's client. You state the city does not have information responsive to a portion of the request.<sup>1</sup> 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. Section 552.101 encompasses information made confidential by other statutes. The submitted information consists of body worn camera recordings of a city police officer. 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. However, section 1701.661(f) provides, in relevant part, as follows:

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<sup>1</sup> The Act does not require a governmental body to release information that did not exist when a request for information was received or prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

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 purposes of subsection (f) and the city may not withhold the entirety of the recordings under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code. However, portions of the recordings involve other subjects and, based upon your representations, we understand you have not received written authorization for release from the remaining subjects. Accordingly, the city must withhold the portions of the recordings that involve the remaining subjects of the recordings under section 552.101 of the Government Code in conjunction with section 1701.661(f).

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> Gov't Code § 552.130. We note section 552.130 protects personal privacy interests. Accordingly, 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. *See id.* § 552.023(a) (person or person's authorized representative has special right of access to records that contain information relating to the person that are protected from public disclosure by laws intended to protect that person's privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Therefore, with the exception of the motor vehicle record information belonging to the requestor's client, the city must withhold the motor vehicle record information we indicated in the remaining information under section 552.130 of the Government Code.

In summary, the city must withhold the portions of the recordings that involve the remaining subjects of the 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 city must withhold the motor vehicle record information we indicated in the remaining information under section 552.130 of the Government Code. The city must release the remaining information.<sup>3</sup>

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<sup>2</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).

<sup>3</sup> As noted above, the requestor has a special right of access to some of the information being released in this instance. *See* Gov't Code § 552.023(a); ORD 481 at 4.

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,

Kimbell Kesling  
Assistant Attorney General  
Open Records Division

KK/mo

Ref: ID# 823701

Enc. Submitted documents

c: Requestor  
(w/o enclosures)