



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 6, 2022

Ms. Leslie A. Whitten
Assistant City Attorney II
City of College Station
P.O. Box 9960
College Station, Texas 77842

OR2022-00411

Dear Ms. Whitten:

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# 923921 (A21-002079).

The College Station Police Department (the "department") received a request for information pertaining to a specified incident. You state you will release some information, including the CR-3 accident report pursuant to section 550.065 of the Transportation Code. *See* Transp. Code § 550.065(c) (providing for the release of accident report to person or entity listed under this subsection). 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." *Id.* § 552.101. Body worn cameras are subject to chapter 1701 of the Occupations Code. Chapter 1701 provides the procedures a requestor must follow when seeking a body worn camera recording. Occ. Code § 1701.661(a). In this instance, the requestor provided the requisite information required by section 1701.661(a) of the Occupations Code. However, section 1701.661(f) provides, in relevant part, as follows:

A law enforcement agency may not release any portion of a recording made in a private space, or 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 recordings at issue are body worn camera recordings involving the investigation of conduct that constitutes a misdemeanor punishable by fine only and which did not result in arrest. You state the department does not have written authorization for release from all of the subjects of the recordings. *Id.* Accordingly, the submitted body worn camera recording is confidential and must be withheld 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. Accordingly, the remaining information is not subject to section 1701.661 of the Occupations Code, and the department may not withhold any portion of the remaining video recording under section 552.101 on that basis.

Section 552.130 of the Government Code excepts from public disclosure information relating to a motor vehicle operator's or driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country.¹ *See* Gov't Code § 552.130. We note section 552.130 is designed to protect the privacy of individuals. Thus, the requestor has a right of access to her client's motor vehicle record information and it may not be withheld from her under section 552.130. *See id.* § 552.023 (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 herself). Accordingly, with the exception of the motor vehicle record information pertaining to the requestor's client, the department must withhold all visible license plates within the recording at issue under section 552.130 of the Government Code.

In summary, the department must withhold the submitted body worn camera recording 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 pertaining to the requestor's client, the department must withhold all visible license plates within the remaining recording at issue 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, 480 (1987), 470 (1987).

² We note 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 No. 481 at 4. Thus, if the department receives another request for the same 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,

Jennifer Copeland
Assistant Attorney General
Open Records Division

JC/ba

Ref: ID# 923921

Enc. Submitted documents

c: Requestor
(w/o enclosures)