



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 26, 2022

Mr. Chuong Q. Phung
Assistant City Attorney
City of Grand Prairie
300 West Main Street
Grand Prairie, Texas 75050

OR2022-02224

Dear Mr. Phung:

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# 926728 (GPCA# 21-0340).

The Grand Prairie Police Department (the "department") received a request for fourteen categories of information pertaining to a specified incident involving the requestor's client. You state you released some information. 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 representative sample of information.¹

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. 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. *See* Occ. Code § 1701.661(a). In this instance, the requestor provided the requisite information under section 1701.661(a). We note, however, section 1701.661(f) provides, in relevant part, as follows:

¹ We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

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 body worn camera recordings involve an investigation of conduct that constitutes a misdemeanor punishable by fine only and that did not result in an arrest. You also state you do not have permission for release from all of the subjects of the recordings at issue. *See id.* Accordingly, we find the department must withhold the 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 video recordings consist of dash camera recordings. This information does not consist of body worn camera recordings. Therefore, the remaining video recordings are not subject to section 1701.661 of the Occupations Code, and the department may not withhold any portion of the remaining video recordings 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 *Industrial Foundation*. *Id.* at 683. This office has also found personal financial information not relating to a financial transaction between an individual and a governmental body is generally highly intimate or embarrassing. *See* Open Records Decision No. 600 (1992) (personal financial information includes choice of particular insurance carrier). Upon review, we find some of the remaining information, which we indicated, satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Therefore, the department must withhold the information we indicated 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.² *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 him 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

² 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).

ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Accordingly, with the exception of the motor vehicle record information belonging to the requestor's client, the department must withhold all visible and audible license plates and vehicle registration stickers in the remaining video recordings under section 552.130 of the Government Code.

In summary, the department must withhold the body worn camera recordings under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code. The department must withhold the information we indicated under section 552.101 of the Government Code in conjunction with common-law privacy. With the exception of the motor vehicle record information belonging to the requestor's client, the department must withhold all visible and audible license plates and vehicle registration stickers 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,

Pearlie Gault
Attorney
Open Records Division

PG/ba

Ref: ID# 926728

Enc. Submitted documents

c: Requestor
(w/o enclosures)