



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 10, 2022

Ms. Dalia Flores  
Paralegal  
City of San Angelo  
72 West College Avenue  
San Angelo, Texas 76903

OR2022-03982

Dear Ms. Flores:

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# 929992 (City File No. P003217-110521).

The San Angelo Police Department (the "department") received a request for information pertaining to an incident involving the requestor's client. We understand the department does not maintain information responsive to portions 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.

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<sup>1</sup> The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

Section 552.101 of the Government Code exempts 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. We note, and the department acknowledges, the submitted information consists of recordings from officers’ body worn cameras. Body worn cameras are subject to chapter 1701 of the Occupations Code. Section 1701.661(a) of the Occupations Code provides:

(a) A member of the public is required to provide the following information when submitting a written request to a law enforcement agency for information recorded by a body worn camera:

- (1) the date and approximate time of the recording;
- (2) the specific location where the recording occurred; and
- (3) the name of one or more persons known to be a subject of the recording.

Occ. Code § 1701.661(a). In this instance, we find the requestor does not provide the requisite information under section 1701.661(a) for one of the submitted recordings, which we have noted. As the body worn camera recording at issue was not properly requested pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information and it need not be released. However, pursuant to section 1701.661(b), a “failure to provide all the information required by [s]ubsection (a) to be a part of a request for recorded information does not preclude the requestor for making a future request for the same recorded information.” *Id.* 1701.661(b). Upon review, we find the instant request includes the information required by section 1701.661(a) of the Occupations Code with respect to the remaining body worn camera recordings at issue. Accordingly, we find the requestor properly requested the remaining body worn camera recordings at issue. Thus, we will address your argument to disclosure of this information.

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 video recordings at issue consist of body worn camera recordings involving the investigation of conduct that constitutes a misdemeanor punishable by fine only and that did not result in an arrest. The department states it has not received permission for release from each of the subjects of the submitted recordings. *See id.* Accordingly, we find the department must withhold the remaining 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 recording does not consist of a body worn camera recording. Therefore, the remaining video recording 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 of the Government Code on that basis.

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> *See* Gov't Code § 552.130. We note section 552.130 protects personal privacy. Thus, 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) (person or person's authorized representative has a special right of access, beyond right of general public, to information held by governmental body that relates to person and that is protected from public disclosure by laws intended to protect that person's privacy interest); ORD 481 at 4 (privacy theories not implicated when individuals request information concerning themselves). Accordingly, with the exception of the motor vehicle record information pertaining to the requestor's client, the department must withhold all visible license plates and registration stickers under section 552.130 of the Government Code.

In summary, the body worn camera recording we noted was not properly requested pursuant to chapter 1701 of the Occupations Code and it need not be released. The department must withhold the remaining 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 motor vehicle record information pertaining to the requestor's client, the department must withhold all visible license plates under section 552.130 of the Government Code. The department must release the remaining information.

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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).

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,

D. Michelle Case  
Assistant Attorney General  
Open Records Division

DMH/jxd

Ref: ID# 929992

c: Requestor