



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 8, 2022

Mr. Chuong Q. Phung
Assistant City Attorney
City of Grand Prairie
300 West Main Street
Grand Prairie, Texas 75953-4045

OR2022-06879

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# 934805 (GPCA Ref. No. 21-0376).

The Grand Prairie Police Department (the "department") received a request for several categories of information pertaining to a specified motor vehicle accident. The department state it has released most of the responsive information to the requestor. 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 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. 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. Section 1701.661(a) provides:

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;

¹ We assume that 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 that those records contain substantially different types of information than that submitted to this office.

- (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). We note the requestor provided the information required by section 1701.661(a) of the Occupations Code for release of the body worn camera recordings at issue. The submitted body worn camera recordings reflect they were required to be made by law or the policies of the department and relate to a law enforcement purpose. *See id.* 1701.661(h). We note, however, section 1701.661(c) and section 1701.661(d) provide:

(c) Except as provided by Subsection (d), information recorded by a body worn camera and held by a law enforcement agency under this subchapter is not subject to the requirements of Section 552.021, Government Code.

(d) Information that is or could be used as evidence in a criminal prosecution is subject to the requirement of Section 552.021, Government Code.

Id. § 1701.661(c)-(d). The department states the body worn camera recordings at issue relate to an incident that “was not criminal in nature.” Further, the department states the body worn camera recordings could not be used as evidence in a criminal prosecution. Based upon the department’s representations and our review, we agree the submitted body worn camera recordings are confidential and must be withheld under section 552.101 of the Government Code in conjunction with section 1701.661(c) of the Occupations Code. However, we note the remaining information does not consist of a body worn camera recording. Therefore, the remaining information is not subject to section 1701.661, and the department may not withhold any portion of it 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.² *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); ORD 481 at 4 (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 audible and visible license plates within the remaining recording under section 552.130 of the Government Code.

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).

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(c) of the Occupations Code. With the exception of the motor vehicle record information pertaining to the requestor's client, the department must withhold all audible and visible license plates within the remaining recording under section 552.130 of the Government Code. The department must release the remaining information to this requestor.³

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,

Gerald A. Arismendez
Assistant Attorney General
Open Records Division

GAA/jxd

Ref: ID# 934805

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³ As previously noted, 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. However, we also note, if the department receives another request for this information from an individual without such a right of access, section 552.130(c) of the Government Code allows a governmental body to redact 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).