



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 30, 2022

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

OR2022-09406

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# 938954 (Reference No. P003415).

The San Angelo Police Department (the "department") received a request for sixteen points of information pertaining to a specified motor vehicle accident involving two named individuals.¹ We understand the department released some information to the requestor, including informing the requestor some of the requested information is available on a specified portion of the department's website.² We also understand the department does not have some of the requested information.³ You claim the submitted information is

¹ We note the department sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request).

² A governmental body's officer for public information may comply with the requirement to promptly produce public information "by referring a requestor to an exact Internet location or uniform resource locator (URL) address on a website maintained by the governmental body and accessible to the public if the requested information is identifiable and readily available on that website." *See* Gov't Code § 552.221(b-1).

³ The Act does not require a governmental body to create or release information that did not exist when a request for information was received. *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), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public 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. The submitted information includes recordings from police officers’ body worn cameras. Section 1701.661(a) of the Occupations Code states the information a requestor must provide when seeking a body worn camera recording. *See* Occ. Code § 1701.661(a). We note the requestor provides the requisite information for the body worn camera recordings at issue. However, 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). You state the recordings at issue pertain to the investigation of conduct that constitutes a misdemeanor punishable by fine only and which did not result in an arrest. You also state you have not received written authorization for release from all of the subjects of the recordings. *See id.* Accordingly, we find the department must withhold the submitted body worn camera recordings, which we indicated, under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code. We note the remaining recordings do not consist of body worn camera recordings. Therefore, the remaining recordings are not subject to chapter 1701 of the Occupations Code and the department may not withhold them 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.⁴ *See* Gov’t Code § 552.130. Accordingly, the department must withhold all visible license plates and motor vehicle registration information within the remaining recordings under section 552.130 of the Government Code.

In summary, the department must withhold the submitted body worn camera recordings we indicated under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code. The department must withhold all visible license plates and motor vehicle registration information within the remaining recordings under

⁴ 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).

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,

James M. Graham
Assistant Attorney General
Open Records Division

JMG/mo

Ref: ID# 938954

Enc. Submitted documents

c: Requestor
(w/o enclosures)