



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 13, 2022

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

OR2022-20173

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# 956156 (Ref. No. GPCA 22-0100).

The Grand Prairie Police Department (the "department") received five requests from the same requestor for reports, body worn camera recordings, and dash camera recordings pertaining to specified incidents. We understand the department has 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.<sup>1</sup>

Initially, you state some of the requested information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2022-13710 (2022). In that ruling, we determined the department: 1) must release event numbers 2021-198456 and 2021-208834 to this requestor; 2) may, with the exception of basic information, withhold the remaining reports at issue under section 552.108(a)(1) of the Government Code; 3) must withhold the information we marked, as well as all public citizens' dates of birth, under section 552.101 of the Government Code in conjunction with

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<sup>1</sup> 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.

common-law privacy; and 4) must release the remaining information at issue. There is no indication the law, facts, and circumstances on which the prior ruling was based have changed. Accordingly, the department may continue to rely on Open Records Letter No. 2022-13710 as a previous determination and withhold or release the identical information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes information is or is not excepted from disclosure).

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. We note the requestor provides the requisite information for the submitted body worn camera recordings. 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.

Occ. Code § 1701.661(c)-(d). The department states the body worn camera recordings in Exhibits B and C relate to incidents that “[were] 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 Exhibits B and C 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.<sup>2</sup>

Additionally, section 1701.661(f) of the Occupations Code provides, in relevant part:

A law enforcement agency may not release any portion of a recording made in a private space . . . without written authorization from the person who is the subject of that portion of the recording[.]

*Id.* § 1701.661(f). Upon review, we find portions of the body worn camera recordings in Exhibit D were made in a private space for purposes of section 1701.661(f). *See id.* § 1701.651(3) (defining “private space” for purposes of section 1701.661(f)). We note the requestor is one of the subjects of the recordings at issue; thus, we find the requestor has consented to release of the recordings at issue for the purposes of subsection (f). However,

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<sup>2</sup> As our ruling is dispositive, we need not address the remaining argument against disclosure of this information.

we also note portions of the recordings at issue involve another subject, and we understand the department has not received written authorization for release from the other subjects. *See id.* § 1701.661(f). Thus, the department must withhold the information we have indicated under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code. However, we find no portion of the remaining body worn camera recordings were made in a private space. Accordingly, the department may not withhold any portion of the remaining information under section 552.101 of the Government Code in conjunction with section 1701.661 of the Occupations Code.

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>3</sup> Gov't Code § 552.130. We note, however, because section 552.130 is designed to protect the privacy of individuals, the requestor has a right of access to his motor vehicle record information pursuant to section 552.023 of the Government Code. *See id.* § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); ORD 481 at 4 (privacy theories not implicated when individuals request information concerning themselves). Accordingly, with the exception of the requestor's motor vehicle information, the department must withhold the information we indicated in the remaining video recordings under section 552.130 of the Government Code.

In summary, the department must continue to rely on Open Records Letter No. 2022-13710 as a previous determination and withhold the identical information in accordance with that ruling. The department must withhold Exhibits B and C under section 552.101 of the Government Code in conjunction with section 1701.661(c) of the Occupations Code. The department must withhold the information we have indicated under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code. With the exception of the requestor's motor vehicle information, the department must withhold the motor vehicle record information we indicated 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

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<sup>3</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).

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,

Chase D. Young  
Assistant Attorney General  
Open Records Division

CDY/mo

Ref: ID# 956156

Enc. Submitted documents

c: Requestor  
(w/o enclosures)