



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 7, 2022

Mr. Hunter W. Mattocks  
Counsel for the City of Duncanville  
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.  
500 North Akard Street, Suite 1800  
Dallas, Texas 75201

OR2022-27168

Dear Mr. Mattocks:

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# 971097 (File Reference No. Duncanville-JC01).

The Duncanville Police Department (the "department"), which you represent, received a request for body worn camera recordings pertaining to a specified incident. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, we note, and you acknowledge, the department failed to comply with section 552.301 of the Government Code. *See id.* § 552.301(b), (e); *see also* Occ. Code § 1701.662(a), (c). Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information from disclosure. *See* Gov't Code § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ). Because sections 552.101 and 552.130 can provide compelling reasons to overcome the presumption of openness, we will address the applicability of these exceptions to the information at issue.<sup>1</sup> However, we find you have failed to establish a compelling reason to address your argument under section 552.108 of the Government Code.

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<sup>1</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).

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. The submitted information consists of department police officers’ body worn camera recordings. 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 as follows:

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, the requestor provided the requisite information under section 1701.661(a) for the body worn camera recordings at issue. Section 1701.661(f) of the Occupations Code provides, in relevant part, as follows:

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 or, if the person is deceased, from the person’s authorized representative.

Occ. Code § 1701.661(f). The department states the submitted video recordings at issue were made in a private space. *See id.* § 1701.651(3) (defining “private space” for purposes of section 1701.661(f)). The department further states it does not have written authorization for release of the recordings from all of the subjects of the recordings. *See id.* § 1701.661(f). Upon review, we find portions of the body worn camera recordings at issue were made in a private space. Accordingly, the department must withhold the information we indicated under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code. However, the remainder of the recordings at issue were not made in a private space for purposes of section 1701.661(f). Therefore, the department failed to demonstrate the remaining information at issue is confidential under section 1701.661(f) of the Occupations Code, and the department may not withhold it under section 552.101 of the Government Code on that basis.

Section 552.130 of the Government Code exempts from public disclosure 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. *See Gov’t Code § 552.130.* Thus, the department must withhold all visible license plates and registration stickers in the remaining information under section 552.130 of the Government Code.

In summary, the department must withhold the information 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 registration stickers in the remaining information 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,

Kimbell Kesling  
Assistant Attorney General  
Open Records Division

KK/jxd

Ref: ID# 971097

Enc. Submitted documents

c: Requestor  
(w/o enclosures)