



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 26, 2022

Mr. Christopher Mullins
Assistant City Attorney
City of Fort Worth
200 Texas Street, Third Floor
Fort Worth, Texas 76102

OR2022-33198

Dear Mr. Mullins:

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# 980548 (P09907-080222).

The City of Fort Worth (the "city") received a request for body worn camera recordings pertaining to an incident involving the requestor's client. 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.

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. We note the submitted information contains a recording from a city police officer's body worn camera, which is subject to chapter 1701 of the Occupations Code. 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 recording at issue. However, section 1701.661(f) 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 or, if the person is deceased, from the person's authorized representative.

Id. § 1701.661(f). You assert portions of the body worn camera recording at issue were made in a private space and, thus, is confidential in its entirety under section 1701.661(f).

Upon review, we agree portions of the body worn camera recording at issue, which we have indicated, were made in a private space. *See id.* § 1701.651(3) (defining “private space” for purposes of section 1701.661(f)). You state the city has not received written authorization for release from the subject of the portions of the recording made in the private space. *See id.* § 1701.661(f). Accordingly, the city 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.¹ However, upon review, we find no portion of the remainder of the body worn camera recording at issue was made in a private space. *See id.* Therefore, the city may not withhold any portion of the remaining information under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code.

Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). Upon review, we find the city has failed to demonstrate any of the remaining information at issue is highly intimate or embarrassing and not of legitimate public concern. Therefore, the city may not withhold any of the remaining information under section 552.101 of the Government Code in conjunction with common-law privacy.

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 city must withhold all audible and visible license plates, license plate numbers, registration stickers, driver’s licenses, and driver’s license numbers and states of issuance within the remaining information under section 552.130 of the Government Code.

¹ As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

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 city 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 motor vehicle record information pertaining to the requestor's client, the city must withhold all audible and visible license plates, license plate numbers, registration stickers, driver's licenses, and driver's license numbers and states of issuance within the remaining information under section 552.130 of the Government Code. The city 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,

Chase D. Young
Assistant Attorney General
Open Records Division

CDY/pt

Ref: ID# 980548

Enc. Submitted documents

c: Requestor
(w/o enclosures)