



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 2, 2022

Ms. Stephanie Herpeche
Records Clerk
Gainesville Police Department
201 Santa Fe Street
Gainesville, Texas 76240

OR2022-34097

Dear Ms. Herpeche:

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# 981843 (ORR# 22-106).

The Gainesville Police Department (the "department") received a request for information pertaining to a specified motor vehicle accident. You state the department is releasing some information to the requestor with redactions made pursuant to section 552.130(c) of the Government Code.¹ 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.

Initially, we note some of the requested information was the subject of a previous request for a ruling, as a result of which this office issued Open Records Letter No. 2022-28499 (2022). We have no indication the law, facts, or circumstances on which the prior ruling was based have changed. Thus, the department must continue to rely on Open Records Letter No. 2022-28499 as a previous determination and release or withhold the information at issue 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,

¹ 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 552.130(e). *See id.* § 552.130(d), (e).

first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). However, to the extent the information in the current request is not encompassed by the prior ruling, we will consider the exception you raise.

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. This section encompasses information made confidential by other statutes. We note the submitted information contains recordings from department police officers’ body worn cameras, which are 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 recordings at issue. We also note the submitted recordings reflect they were required to be made by law or the policies of the department and the recordings relate to a law enforcement purpose. *See id.* § 1701.661(h). Section 1701.661 of the Occupations Code provides, in pertinent part:

(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). You state the submitted body worn camera recordings pertain to an incident where no criminal action is alleged to have occurred and will not be used in a criminal prosecution. Based on your representations and our review, we agree the submitted body worn camera recordings are confidential under section 1701.661(c) of the Occupations Code, and the department must withhold them under section 552.101 of the Government Code on that basis.

In summary, the department must continue to rely on Open Records Letter No. 2022-28499 as a previous determination and release or withhold the information at issue in accordance with that ruling. The department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 1701.661(c) of the Occupations Code.

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,

Erin Groff
Assistant Attorney General
Open Records Division

EMG/

Ref: ID# 981843

Enc. Submitted documents

c: Requestor
(w/o enclosures)