



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 16, 2022

Mr. Chuong Q. Phung
Assistant City Attorney
City of Grand Prairie
300 West Main Street
Grand Prairie, Texas 75050

OR2022-35742

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# 985034 (GPCA 22-0234).

The Grand Prairie Police Department (the "department") received a request for fourteen points of information pertaining to a specified incident involving the requestor's client. You state the department released most of the requested information. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception and reviewed the submitted representative sample of information.¹

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 a peace officer's body worn camera recording. Body worn cameras 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

¹ 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 that those records contain substantially different types of information than that submitted to this office.

note the requestor provides the requisite information for the body worn camera recording at issue. We note, however, section 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.

Id. § 1701.661(c)-(d). You state the submitted body worn camera recording pertains to an incident where no criminal action is alleged to have occurred and will not be used in a criminal prosecution. Based upon your representations and our review, we agree the submitted body worn camera recording is confidential and must be withheld under section 552.101 of the Government Code in conjunction with section 1701.661(c) of the Occupations Code. We note the remaining recording does not consist of a body worn camera recording. Therefore, the remaining information is not subject to chapter 1701 of the Occupations Code and the department may not withhold it 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.² *See* Gov't Code § 552.130. We note, because section 552.130 protects privacy interests, the requestor has a right of access to her client's motor vehicle record information pursuant to section 552.023 of the Government Code. *See id.* § 552.023(b) (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, the department must withhold all visible license plates not belonging to the requestor's client within the remaining recording under section 552.130 of the Government Code.

In summary, the department must withhold the submitted body worn camera recording under section 552.101 of the Government Code in conjunction with section 1701.661(c) of the Occupations Code. The department must withhold all visible license plates not belonging to the requestor's client within the remaining recording 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.

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).

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# 985034

Enc. Submitted documents

c: Requestor
(w/o enclosures)