



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 16, 2022

Mr. Vic Ramirez
Associate General Counsel
Lower Colorado River Authority
P.O. Box 220
Austin, Texas 78767-0220

OR2022-39255

Dear Mr. Ramirez:

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# 986256 (Ref. No. ORR100722).

The Lower Colorado River Authority (the "authority") received a request for information pertaining to a specified incident involving the requestor. You state the authority has released some of the requested information. You state the authority does not maintain information responsive to a portion of the request.¹ You claim some of 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. 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).

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." *Id.* § 552.101. Section 552.101 encompasses information made confidential by other statutes. The submitted information consists of officer's 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. We note the requestor provided the requisite information under

¹ The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

section 1701.661(a) for release of the body worn camera recordings at issue. However, section 1701.661(f) provides, in relevant part:

A law enforcement agency may not release any portion . . . of a recording involving the investigation of conduct that constitutes a misdemeanor punishable by fine only and does not result in arrest, 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). You state the submitted information involves an investigation of conduct that constitutes a misdemeanor punishable by fine only and which did not result in an arrest. Upon review, we note the requestor is one of the subjects of the recordings. Thus, we find the requestor has consented to release of the recordings for purposes of subsection (f) and the authority may not withhold the entirety of the recordings under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code. However, portions of the recordings involve another subject and based upon your representation, we understand the authority has not received written authorization for release from the remaining subject. Accordingly, the authority must withhold the portions of the submitted body worn camera recordings that involve the remaining subject of the recordings from the requestor under section 552.101 of the Government Code in conjunction with section 1701.661(f) 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.² See Gov't Code § 552.130. Accordingly, the authority must withhold all visible license plates and registration stickers within the remaining information under section 552.130 of the Government Code.

In summary, the authority must withhold the portions of the submitted body worn camera recordings depicting the subject who is not the requestor under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code. The authority must withhold all visible license plates and registration stickers within the remaining information under section 552.130 of the Government Code. The authority 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->

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).

[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,

Alexandra C. Burks
Assistant Attorney General
Open Records Division

ACB/pt

Ref: ID# 986256

Enc. Submitted documents

c: Requestor
(w/o enclosures)