



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 25, 2016

Ms. Gina Villarreal  
Records Administrator  
Aransas Pass Police Department  
600 West Cleveland Boulevard  
Aransas Pass, Texas 78336

OR2016-09264

Dear Ms. Villarreal:

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# 607287.

The Aransas Pass Police Department (the "department") received a request for the video recording of a specified incident. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted information.

Initially, we note some of the submitted information is not responsive to the instant request for information because it is not a video recording. This ruling does not address the public availability of the non-responsive information, which we have marked, and that information need not be released in response to this request.

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<sup>1</sup>Although you do not raise section 552.101 of the Government Code, we understand you to raise this exception based on your arguments.

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 consists of a recording from a body worn camera. 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). In this instance, the requestor provides the requisite information. You indicate the submitted recording was 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). Further, you indicate the recording is or could be used as evidence in a criminal prosecution. *See id.* § 1701.661(d). Additionally, we have no indication the recording documents an incident that involves the use of deadly force by an officer or relates to an administrative or criminal investigation of an officer. *See id.* § 1701.660(a). We note, 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). Upon review, we find a portion of the submitted information consists of a body worn camera recording made in a private space. *See id.* § 1701.651(3) (defining “private space” for purposes of section 1701.661(f)). The department states it does not have permission for release from the subject of the recording made in the private space. *See id.* § 1701.661(f). Accordingly, we find the department must withhold the information we have indicated in its entirety under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code. However, we find the department has failed to demonstrate the remaining information consists of a recording made in a private space for purposes of section 1701.661(f). Therefore, the remaining information is not 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. Accordingly, we will address your arguments against disclosure.

Section 552.101 of the Government Code also encompasses section 261.201(a) of the Family Code, which provides:

(a) Except as provided by Section 261.203, the following information is confidential, is not subject to public release under chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

- (1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and
- (2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). We understand you to claim the remaining information is subject to chapter 261 of the Family Code. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code). However, the documents do not reflect that this information was used or developed in an investigation of alleged or suspected child abuse or neglect. Accordingly, we conclude this information is not within the scope of section 261.201. Therefore, the department may not withhold the remaining information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

We note portions of the remaining information are subject to section 552.130 of the Government Code.<sup>2</sup> Section 552.130 provides information relating to a motor vehicle operator’s or driver’s license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release. Gov’t Code § 552.130(a). The department must withhold all visible license plates within the remaining information under section 552.130 of the Government Code.

In summary, the department 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. The department must withhold all visible license plates under section 552.130 of the Government Code. The remaining information must be released.

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 <http://www.texasattorneygeneral.gov/open/>

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<sup>2</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).

[orl\\_ruling\\_info.shtml](#), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink that reads "Mili Gosar". The signature is written in a cursive, flowing style.

Mili Gosar  
Assistant Attorney General  
Open Records Division

MG/akg

Ref: ID# 607287

Enc. Submitted documents

c: Requestor  
(w/o enclosures)