



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 28, 2019

Ms. DeAndrea Bradford
Assistant City Attorney
City of Arlington
P.O. Box 1065
Arlington, Texas 76004-1065

OR2019-24013

Dear Ms. Bradford:

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# 782829 (APD Ref. No. 80928).

The Arlington Police Department (the "department") received a request for six categories of information pertaining to a specified accident. The department states it has released some information to the requestor with redactions pursuant to section 552.130(c) of the Government Code.¹ The department also states it has released the accident report to the requestor pursuant to section 550.065 of the Transportation Code. *See* Transp. Code § 550.065(c) (providing for release of accident report to person or entity listed under this subsection). The department claims the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions the department claims and reviewed the submitted representative sample of information.²

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

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).

²We 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 those records contain substantially different types of information than that submitted to this office.

Code § 552.101. This section encompasses information made confidential by other statutes. The submitted information includes a recording from a department officer's 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). We note the requestor provided the requisite information for the body worn camera recording at issue. We understand the recording at issue was required to be made by law or the policies of the department and the recording relates to a law enforcement purpose. *See id.* § 1701.661(h). Further, we understand 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 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.

Id. § 1701.661(f). The department states the recording at issue pertains to the investigation of conduct that constitutes a misdemeanor punishable by fine only and which did not result in an arrest. The department states it has not received written authorizations for release from all of the subjects of the recording. *See id.* Accordingly, we find the department must withhold the submitted body worn camera recording under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code. However, we note the remaining information does not consist of body worn camera recordings. Therefore, the remaining information is not subject to section 1701.661 of the Occupations Code and the department may not withhold any of it under section 552.101 of the Government Code on that basis.

Section 552.130 excepts from disclosure 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. *See* Gov't Code § 552.130. We note section 552.130 protects personal privacy. Accordingly, the requestor has a right of access to his client's own motor vehicle record information under section 552.023 of the Government Code and it may not be withheld from him under section 552.130. *See id.* § 552.023(a) (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); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Upon review, we note portions of the remaining information are subject to section 552.130. However, because we are unable to determine whether any of the information at issue belongs to the requestor's client, we must rule conditionally. To the extent the motor vehicle record information we have marked and indicated belongs to the requestor's client, the department must release it under section 552.023 of the Government Code. To the extent the motor vehicle record information we have marked

and indicated does not belong to the requestor's client, the department must withhold it under section 552.130 of the Government Code.

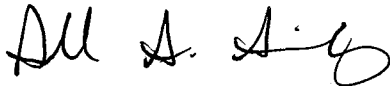
The department and the requestor note the requestor may have a right of access to some of the information at issue under section 730.007(a) of the Transportation Code. *See Gov't Code § 552.130(b); Transp. Code § 730.007(a)* (personal information obtained in connection with motor vehicle record may be disclosed under certain circumstances). We note that chapter 730 is applicable to an "agency . . . that compiles or maintains motor vehicle records." *Transp. Code § 730.003(1)*. The department is not an agency as defined by section 730.003(1). Therefore, chapter 730 does not apply to the department. Accordingly, we conclude the requestor does not have a right of access to this information pursuant to chapter 730 of the Transportation 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(f) of the Occupations Code. To the extent the motor vehicle record information we have marked and indicated does not belong to the requestor's client, the department must withhold it 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.

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,



Gerald A. Arismendez
Assistant Attorney General
Open Records Division

GAA/mo

Ref: ID# 782829

Enc. Submitted documents

c: Requestor
(w/o enclosures)