



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 18, 2019

Ms. DeAndrea Bradford
Assistant City Attorney
City of Arlington
Mail Stop 04-0200
P.O. Box 1065
Arlington, Texas 76004-1065

OR2019-26100

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# 786329 (PD Reference No. 82374).

The Arlington Police Department (the "department") received a request for body camera footage pertaining to a specified incident. 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 representative sample of information.¹

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. The submitted information consists of a recording from a police 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 in this instance provided the requisite information. We understand the submitted recordings were required to be made by law or the policies of the department and the

¹We assume that 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.

recordings relate to a law enforcement purpose. *See id.* § 1701.661(h). Further, we understand the recordings are or could be used as evidence in a criminal prosecution. *See id.* § 1701.661(d). Additionally, we have no indication the recordings document an incident that involves the use of deadly force by an officer or relate to an administrative or criminal investigation of an officer. *See id.* § 1701.660(a). 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). The department asserts the submitted recording is confidential under section 1701.661(f) because it was made in a private space. However, we find the recording was not made in a private space for purposes of section 1701.661(f). *See id.* § 1701.661(f); *see also id.* 1701.651(3) (defining "private space" for purposes of section 1701.661(f)). Therefore, we conclude the department has failed to establish any of the submitted information is confidential under section 1701.661(f), and it may not withhold the recording under section 552.101 on that ground.

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. We note section 552.130 protects privacy interests. Accordingly, the requestor has a right of access to his client's motor vehicle record information pursuant to section 552.023 of the Government Code and it may not be withheld from him. *See id.* § 552.023(a) ("person or a person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and that is protected from public disclosure by laws intended to protect that person's privacy interests"); ORD 481 at 4 (privacy theories not implicated when individual requests information concerning herself). Therefore, with the exception of the information pertaining to the requestor's client, the department must withhold the visible license plates under section 552.130 of the Government Code.

Some of the remaining information may be subject to section 552.1175 of the Government Code. Section 552.1175 of the Government Code excepts from disclosure the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the

²The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body. *See Open Records Decision Nos.* 481 (1987), 480 (1987), 470 (1987).

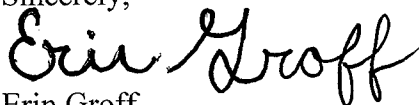
individual elects to keep the information confidential. Gov't Code § 552.1175. Upon review, we find the information we have indicated consists of personal information of an officer of the department. Accordingly, to the extent the officer at issue elects to restrict access to his information in accordance with section 552.1175(b), the department must withhold the information we have indicated under section 552.1175 of the Government Code. Conversely, if the officer does not elect to restrict access to his information in accordance with section 552.1175(b), the information at issue may not be withheld under section 552.1175.

In summary, with the exception of the information pertaining to the requestor's client, the department must withhold the visible license plates under section 552.130 of the Government Code. If the officer at issue elects to restrict access to his information in accordance with section 552.1175(b), the department must withhold the information we have indicated under section 552.1175 of the Government Code. The department must release the remaining information to this requestor.

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/mo

Ref: ID# 786329

Enc. Submitted documents

c: Requestor
(w/o enclosures)