



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 4, 2019

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

OR2019-31006

Dear Ms. Roberts:

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# 794923 (Reference No. 84654).

The Arlington Police Department (the "department") received a request for fourteen categories of information pertaining to a specified incident. You state the department released most of the requested information to the requestor with redactions made pursuant to section 552.130 of the Government Code.¹ You also state the department released the peace officer's crash report pursuant to section 550.065(c) of the Transportation Code. *See* Transp. Code 550.065(c). You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.² We have considered the exception you claim and reviewed the submitted representative sample of information.³

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).

² We note the department did not comply with section 552.301 of the Government Code and section 1701.662(a) of the Occupations Code in requesting this decision. *See* Gov't Code § 552.301(b), (e); Occ. Code 1701.662(a). Nevertheless, because section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will consider your argument against disclosure of the submitted information. *See id.* §§ 552.007, .302, .352.

³ We 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.

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 peace officer’s body worn camera recording. 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. Section 1701.661(a) provides:

A member of the public is required to provide the following information when submitting a written request to a law enforcement agency for information recorded by a body worn camera:

- (1) the date and approximate time of the recording;
- (2) the specific location where the recording occurred; and
- (3) the name of one or more persons known to be a subject of the recording.

Occ. Code § 1701.661(a). Upon review of the submitted information, we determine the requestor provided the information required by section 1701.661(a) of the Occupations Code for release of the body worn camera recording at issue. The submitted recording reflects it was required to be made by law or the policies of the department and relates to a law enforcement purpose. *See id.* § 1701.661(h). 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). You state the submitted video recording consists of a body worn camera recording involving an investigation of conduct that constitutes a misdemeanor punishable by fine only and which did not result in an arrest. You do not indicate you have permission for release from all of the subjects of the recording at issue. *See id.* Accordingly, we find the department must withhold the body worn camera recording at issue under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code.

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,



Patrick P. Mehaffy
Assistant Attorney General
Open Records Division

PPM/rm

Ref: ID# 794923

Enc. Submitted documents

c: Requestor
(w/o enclosures)