



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 1, 2022

Ms. Dawn Roberts
Assistant City Attorney
City of Arlington
P.O. Box 90231
Arlington, Texas 76004-3231

OR2022-02915

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# 928440 (ORR# R124634).

The Arlington Police Department (the "department") received a request for information pertaining to a specified incident. You state you have released some information. You claim a portion 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 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. Section 552.101 encompasses section 1701.661(f) of the Occupations Code, which provides, in relevant part, as follows:

A law enforcement agency may not release any portion of a recording made in a private space, or 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

¹ We 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.

that portion of the recording or, if the person is deceased, from the person's authorized representative.

Occ. Code § 1701.661(f). Upon review, we conclude portions of the body worn camera recordings at issue were made in a private space. *See id.* § 1701.651(3) (defining "private space" for purposes of section 1701.661(f)). The department states it has not received written authorization for release from all of the subjects of the portions of the recordings made in a private space. *See id.* § 1701.661(f). Accordingly, the department must withhold the information we indicated under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code. However, we find the remaining portions of the body worn camera recordings at issue were not made in a private space for the purposes of section 1701.661(f). Therefore, the department may not withhold any portion of the remaining information under section 552.101 of the Government Code on this basis. 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 <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,

Colin Henry
Attorney
Open Records Division

CEH/jm

Ref: ID# 928440

c: Requestor