



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 17, 2016

Ms. Laura Russell  
Attorney  
Texas Parks and Wildlife Department  
4200 Smith School Road  
Austin, Texas 78744-3291

OR2016-03777

Dear Ms. Russell:

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# 598625.

The Texas Parks and Wildlife Department (the "department") received a request for specified body worn camera recordings. You state you have released some information to the requestor. 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.

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 recordings 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 recordings were required to be made by law or the policies of the department and the recordings relate to a law

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<sup>1</sup>We note the department failed to comply with the procedural requirements of section 552.301 of the Government Code in requesting a decision from this office. *See* Gov't Code § 552.301(e). Nonetheless, because section 552.101 of the Government Code is a mandatory exception that can provide a compelling reason to overcome the presumption of openness, we will consider the applicability of this section to the submitted information. *See id.* §§ 552.007, .302, .352.

enforcement purpose. *See id.* § 1701.661(h). Further, you indicate 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 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:

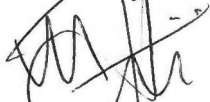
A law enforcement agency may not release any portion of a recording made in a private space . . . without written authorization from the person who is the subject of that portion of the recording or, if the person is deceased, from the person's authorized representative.

*Id.* § 1701.661(f). Upon review, we find portions of the submitted information consist of body worn camera recordings 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 written authorization for release from the subjects of the recordings 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 recordings 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. As no other exceptions against disclosure are raised, 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/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/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,



Thana Hussaini  
Assistant Attorney General  
Open Records Division

TH/som

Ref: ID# 598625

Enc. Submitted documents

c: Requestor  
(w/o enclosures)