



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 7, 2017

Mr. Peter G. Smith
City Attorney
City of Richardson
P.O. Box 831078
Richardson, Texas 75083-1078

OR2017-27875

Dear Mr. Smith:

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# 688106 (File No. 17-802)

The Richardson Police Department (the "department") received a request for specified body worn camera recordings. 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 claimed exceptions 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. The submitted information consists of body worn camera recordings of department police officers. Body worn cameras are subject to chapter 1701 of the Occupations Code. Section 1701.661(a) of the Occupations Code reads as follow:

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). We note the requestor provided the information required by section 1701.661(a) of the Occupations Code for release of the body worn camera recordings at issue. The recordings at issue reflect they were required to be made by law or the policies of the department and relate to a law enforcement purpose. *See id.* § 1701.661(h). Further, the department has failed to demonstrate the recordings could not be used as evidence in a criminal prosecution. *See id.* § 1701.661(d) (information “that is or could be used as evidence in a criminal prosecution is subject to the requirements of [the Act.]”). We also have no indication the body worn camera 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 the body worn camera recordings were not made in a private space for the 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)). However, section 1701.661(f) provides,

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). There is no indication the department has received written authorization for release from the subjects of the recordings. The department states the body worn camera recordings at issue involve an investigation of conduct that constitutes a misdemeanor punishable by fine only and did not result in arrest. Based on this representation, we conclude the submitted recordings are confidential under section 1701.661(f) of the Occupations Code and the department must withhold them under section 552.101 of the Government Code on that ground.¹

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.

¹As our ruling is dispositive, we do not address the department’s remaining argument against disclosure of this information.

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, 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,

A handwritten signature in cursive script that reads "Erin Groff".

Erin Groff
Assistant Attorney General
Open Records Division

EMG/sb

Ref: ID# 688106

Enc. Submitted documents

c: Requestor
(w/o enclosures)