



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 8, 2019

Mr. Matthew Murray  
Assistant City Attorney  
City of Fort Worth  
200 Texas Street, 3rd Floor  
Fort Worth, Texas 76102-6311

OR2019-00458

Dear Mr. Murray:

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# 745114 (ORR# W077381).

The Fort Worth Police Department (the "department") received a request for fourteen categories of information pertaining to a specified accident. You state the department has released some of the requested information. 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 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: 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 our review of the submitted information, we determine the requestor provided the requisite information required by section 1701.661(a) of the Occupations Code. The submitted video recording reflects it was required to be made by law or the policies of the department and relate to a law enforcement purpose. *See id.* § 1701.661(h). We understand the video recording is or could be used as evidence in a criminal prosecution. *See id.* § 1701.661(d) (stating information “that is or could be used as evidence in a criminal prosecution is subject to the requirements of [the Act.]”). Additionally, we have no indication the recording documents 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, 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 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 video recording were made in a private space. *See id.* § 1701.651(3) (defining “private space” for purposes of section 1701.661(f)). The department does not indicate it has permission for release from all of the subjects of the recording made in the private space. *See id.* § 1701.661(f). Accordingly, we find the department must withhold the portions of the recording made in a private space under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code. With respect to the remaining portions of the body worn camera recording, you state the information at issue consists of an investigation of conduct that constitutes a misdemeanor punishable by fine only and that did not result in an arrest. You do not indicate you have permission for release from all of the remaining subjects. *See id.* Accordingly, the department must withhold the remaining information at issue under section 552.101 in conjunction with section 1701.661(f).

You also ask this office to issue a previous determination permitting the department to withhold certain body worn camera video recordings pursuant to section 1701.661(f) of the Occupations Code without seeking a ruling from this office. *See Gov’t Code* § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). We decline to issue such

a previous determination at this time. Accordingly, 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,

A handwritten signature in black ink that reads "Emily Kunst". The signature is written in a cursive style with a long horizontal stroke extending to the right.

Emily Kunst  
Assistant Attorney General  
Open Records Division

EK/eb

Ref: ID# 745114

Enc. Submitted documents

c: Requestor  
(w/o enclosures)