



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 22, 2019

Mr. Tray Qualls
Assistant City Attorney
City of Fort Worth
200 Texas Street, 3rd Floor
Fort Worth, Texas 76102

OR2019-01755

Dear Mr. Qualls:

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# 747152 (Request No. W077963).

The City of Fort Worth (the "city") received a request for information pertaining to a specified incident. You state the city 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. This section encompasses information made confidential by other statutes. The submitted information consists of a police officers' body worn camera recordings. Body worn cameras are subject to chapter 1701 of the Occupations Code. 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). We note the requestor provided the information required by section 1701.661(a) of the Occupations Code for release of the submitted body worn camera recordings. The recordings at issue reflect they were required to be made by law or the policies of the city's police department and relate to a law enforcement purpose. *See id.* § 1701.661(h). Further, we understand 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 relate to an administrative or criminal investigation of an officer. *See id.* § 1701.660(a). The submitted recordings demonstrate they were not made in a private space for the purposes of section 1701.661(f). *See id.* §§ 1701.661(f), .651(3) (defining "private space" for purposes of section 1701.661(f)). We note, 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). In this instance, the city informs us 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. The city states it does not have permission for release from all of the subjects of the recordings at issue. Accordingly, the submitted body worn camera recordings are confidential and must be withheld under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code.

Finally, the city asks this office to issue a previous determination that would permit it to withhold body worn camera recordings subject to section 1701.661(f) of the Occupations Code without requesting 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. 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, 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,



Jennifer Copeland
Assistant Attorney General
Open Records Division

JC/mo

Ref: ID# 747152

Enc. Submitted documents

c: Requestor
(w/o enclosures)