



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 19, 2019

Mr. Trey Qualls  
Assistant City Attorney  
City of Fort Worth  
200 Texas Street, 3<sup>rd</sup> Floor  
Fort Worth, Texas 76102

OR2019-07558

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# 755206 (PIR# W079779).

The Fort Worth Police Department (the "department") received a request for information pertaining to a specified motor vehicle accident. The department has released some 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. We note the submitted information consists of a recording from a police officer's body worn camera. Body worn cameras are subject to chapter 1701 of the Occupations Code. Section 1701.661(a) of the Occupations Code provides:

(a) 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 recording at issue. We understand the submitted recording was required to be made by law or the policies of the department and the recording related to a law enforcement purpose. *See id.* § 1701.661(h). We also understand the recording at issue is or could be used as evidence in a criminal prosecution. *See id.* § 1701.661(d). 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 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)). Furthermore, you state the recording at issue involves an investigation of conduct that constitutes a misdemeanor punishable by fine only and did not result in arrest. We note there is no indication the department has received written authorizations for release from the subject of the portions of the recording made in the private space or all subjects of the remaining portions of the recording. *See id.* § 1701.661(f). Accordingly, the submitted body worn camera recording is confidential and must be withheld in its entirety under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code.

You also ask this office to issue a previous determination permitting the department to withhold body worn camera recordings involving the investigation of conduct that constitutes a misdemeanor punishable by fine only and that does not result in arrest and that are without written authorization from all subjects of the recordings under section 552.101 of the Government Code in conjunction with 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 ruling 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, appearing to read "D. Michelle Case", with a long horizontal flourish extending to the right.

D. Michelle Case  
Assistant Attorney General  
Open Records Division

DMC/jxd

Ref: ID# 755206

Enc. Submitted documents

c: Requestor  
(w/o enclosures)