



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 10, 2019

Ms. Lollie Hodge
Custodian of Records
Portland Police Department
1902 Billy G. Webb Drive
Portland, Texas 78374

OR2019-15492

Dear Ms. Hodge:

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# 769667.

The Portland Police Department (the "department") received a request for the report and body worn camera recording related to case number 19PO8634. The department claims the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception the department claims 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:

¹Although the department does not cite to section 552.101 of the Government Code in its brief, we understand the department to raise this exception based on the substance of its argument. Further, although the department raises section 552.108(g) [sic] of the Government Code, the department has not provided any argument to support a claim of section 552.108 of the Government Code. Therefore, we do not address the applicability of this exception to the submitted information. See Gov't Code §§ 552.301, .302.

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 review of the information at issue, we determine 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. The department indicates the recording at issue was required to be made by law or the policies of the department and relates to a law enforcement purpose. *See id.* § 1701.661(h). We understand the 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). 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.

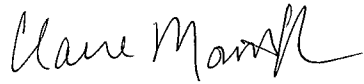
Id. § 1701.661(f). The department informs us the requested body worn camera recording was made in a private space. *See id.* § 1701.651(3) (defining “private space” for purposes of section 1701.661 (f)). The department states a subject of the recording has declined to give permission for release of the recording at issue. *See id.* § 1701.661(f). Accordingly, the department must withhold the requested body worn camera recording under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code. The department must release the submitted report.

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,

A handwritten signature in cursive script, appearing to read "Claire Morris Sloan".

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/gw

Ref: ID# 769667

Enc. Submitted documents

c: Requestor
(w/o enclosures)