



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 14, 2019

Ms. Lizbeth Islas Plaster
City Attorney
City of Lewisville
P.O. Box 299002
Lewisville, Texas 75029-9002

OR2019-16174

Dear Ms. Plaster:

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# 770615.

The Lewisville Police Department (the "department") received a request for information pertaining to a specified accident. You state the department will release 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.

We note the submitted information consists of police officers' body worn camera recordings. 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). In this instance, the requestor does not give the requisite information under section 1701.661(a) for one of the video recordings at issue. As the requestor did not properly request the body worn camera recording we indicated pursuant to chapter 1701, our ruling does not reach this information and it need not be released. However, pursuant to section 1701.661(b), a “failure to provide all the information required by Subsection (a) to be part of a request for recorded information does not preclude the requestor from making a future request for the same recorded information.” *Id.* § 1701.661(b).

However, upon review of the remaining videos, we determine the requestor provided the information required by section 1701.661(a) of the Occupations Code. You state, and the remaining recordings 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). You also state the recordings are 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, you state the recordings do not 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 remaining 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). You state the remaining video recordings consist of body worn camera recordings involving an investigation of conduct that constitutes a misdemeanor punishable by fine only and that did not result in an arrest. You state the department does not have permission for release from any subject of the recordings at issue. *See id.* Accordingly, we find the department must withhold the remaining recordings under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code.

In summary, as the requestor did not properly request the body worn camera recording we indicated pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information and it need not be released. The department must withhold the remaining recordings under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code.

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,



Emily Kunst
Assistant Attorney General
Open Records Division

EK/gw

Ref: ID# 770615

Enc. Submitted documents

c: Requestor
(w/o enclosures)