



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 30, 2019

Mr. Trey Qualls
Mr. John B. Strong
Assistant City Attorneys
City of Fort Worth
200 Texas Street, 3rd Floor
Fort Worth, Texas 76102

OR2019-27329

Dear Mr. Qualls and Mr. Strong:

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# 788075 (PIR Nos. W087790 and W090345).

The Fort Worth Police Department (the "department") received a request for all records pertaining to a specified incident and a request from a second requestor for all body worn camera recordings for the same incident. You state you released some information to the first requestor. 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 body worn camera recordings of department police officers. Body worn cameras are subject to chapter 1701 of the Occupations Code. Section 1701.661(a) of the Occupations Code states the information a requestor must provide when seeking a body worn camera recording. Occ. Code § 1701.661(a). We note the requestors both provided the requisite information for the body worn camera recordings at issue. We understand the recordings 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). Further, we understand the recordings are or could be used as evidence in a criminal prosecution. *See id.* § 1701.661(d). We also have no indication the body worn camera recordings document 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 the

body worn camera recordings were not made in a private space for the purposes of section 1701.661(f). *See id.* § 1701.661(f); *see also id.* 1701.651(3) (defining “private space” for purposes of section 1701.661(f)). However, section 1701.661(f) provides, in relevant part:

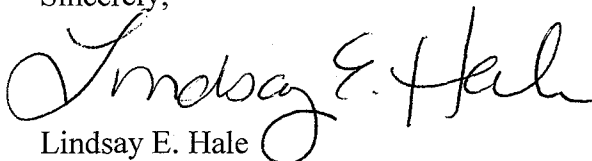
A law enforcement agency may not release any portion . . . of a recording involving the investigation of conduct that constitutes a misdemeanor punishable by fine only and does not result in arrest, without written authorization from the person who is the subject of that portion of the recording or, if the person is deceased, from the person’s authorized representative.

Id. § 1701.661(f). You state the 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. You also state the department has not received written authorization for release from each subject of each recording. Based on these representations, we conclude the submitted recordings are confidential under section 1701.661(f) of the Occupations Code and the department must withhold them under section 552.101 of the Government Code on that ground.

Finally, although you request a previous determination permitting the department to withhold certain information under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code without the necessity of requesting a decision from this office under section 552.301 of the Government Code, we decline to issue one at this time. *See* Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). Accordingly, this letter ruling is limited to the particular records 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 records or 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Lindsay E. Hale
Assistant Attorney General
Open Records Division

LH/eb

Ref: ID# 788075

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)