



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 9, 2019

Mr. Matthew Murray
Assistant City Attorney
City of Fort Worth
200 Texas Street, 3rd Floor
Fort Worth, Texas 76102-6311

OR2019-28352

Dear Mr. Murray:

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# 790010 (ORR# W088168)

The City of Fort Worth (the "city") received a request for information pertaining to a specified motor vehicle accident. You state the city will release most 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 representative sample of information.¹

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 video recording from a city police department 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:

¹ We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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 provides the requisite information for the body worn camera recording at issue. We understand the submitted recording was required to be made by law or the policies of the city and the recording relates to a law enforcement purpose. *See id.* § 1701.661(h). Further, we understand the recording 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:

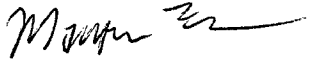
A law enforcement agency may not release any portion . . . of a recording involving the investigation of conduct that constitutes a misdemeanor punishable by fine only and does not result in arrest, without written authorization from the person who is the subject of that portion of the recording or,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

Id. § 1701.661(f). You state the video recording at issue pertains to the investigation of conduct that constitutes a misdemeanor punishable by fine only and which did not result in an arrest. You state the city has not received written authorizations for release from all subjects of the recording. *See id.* Accordingly, we find the city must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code.

You ask this office to issue a previous determination permitting the city to withhold body worn camera recordings under section 552.101 of the Government Code in conjunction with section 1701.661(f) 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 Code). 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 <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,



Matthew Taylor
Assistant Attorney General
Open Records Division

MHT/be

Ref: ID# 790010

Enc. Submitted documents

c: Requestor
(w/o enclosures)