



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 18, 2022

Mr. Alton Estrada
Assistant City Attorney
City of Amarillo
200 South East 3rd Avenue, 4th Floor
Amarillo, Texas 79101

OR2022-20765

Dear Mr. Estrada:

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# 959964 (Ref. No. 22-1220).

The Amarillo Police Department (the "department") received a request for body worn camera recordings pertaining to a specified incident. The department claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception 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. Section 552.101 encompasses information made confidential by other statutes. 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. *See* Occ. Code § 1701.661(a). We note the requestor provides the requisite information for the body worn camera recordings at issue. However, section 1701.661(f) provides, in relevant part, as follows:

A law enforcement agency may not release any portion of a recording 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). The department states the submitted recordings pertain to the investigation of conduct that constitutes a misdemeanor punishable by fine only and which

did not result in arrest. The department informs us it has not received written authorization for release from all of the subjects of the recordings. *See id.* Accordingly, we find the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code.¹

The department also asks this office to issue a previous determination that would permit it to withhold certain body worn camera recordings under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code 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). After due consideration, we have decided to grant your request on this matter. Therefore, this letter ruling authorizes the department to withhold properly requested body worn camera recordings pertaining to the investigation of conduct that constitutes a misdemeanor punishable by fine only and does not result in arrest in circumstances when the department has not received written authorization for release from all of the subjects of the recording, or if the person is deceased, from the person's authorized representative. So long as the elements of law, fact, and circumstances do not change so as to no longer support the findings set forth above, the department need not ask for a decision from this office again with respect to this type of information. *See* ORD 673 at 7-8.

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,

Katie Stallcup
Assistant Attorney General
Open Records Division

AKS/mo

Ref: ID# 959964

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹ As our ruling is dispositive, we need not address the department's remaining argument against disclosure of the submitted information.