



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 5, 2022

Mr. Joe D. Gonzales
Assistant District Attorney
Bexar County
101 West Nueva Street
San Antonio, Texas 78205

OR2022-23369

Dear Mr. Gonzales:

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# 964559 (ORR#s DA 22-0201, BCSO 26601).

The Bexar County Sheriff's Office (the "sheriff's office") received a request for video recordings pertaining to a specified incident. The sheriff's office claims the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception the sheriff's office claims and reviewed the submitted representative sample information.²

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 recordings from police officers' body worn cameras. 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, and the sheriff's office acknowledges, the requestor provided the requisite information

¹ We note, and you acknowledge, the sheriff's office did not comply with section 1701.662 of the Occupations Code in requesting a ruling from this office. *See* Occ. Code § 1701.662. Nonetheless, because section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See* Gov't Code §§ 552.007, .302, .352.

² 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 those records contain substantially different types of information than that submitted to this office.

for the body worn camera recordings at issue. 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). The sheriff's office states the information at issue consists 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. The sheriff's office informs us it does not have permission for release from all subjects of the recording at issue. *See id.* Accordingly, we find the sheriff's office must withhold the submitted information 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 <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,

Joseph Hoggatt
Assistant Attorney General
Open Records Division

JWH/mo

Ref: ID# 964559

Enc. Submitted documents

c: Requestor
(w/o enclosures)