



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 23, 2016

Mr. Guillermo Trevino
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, Third Floor
Fort Worth, Texas 76102

OR2016-11760

Dear Mr. Trevino:

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# 611109 (PIR# W049897).

The City of Fort Worth (the "city") received a request for a specified body worn camera recording. 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 have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This section encompasses information made confidential by other statutes. We note the submitted information consists of a recording from a body worn camera. 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). You state, and we agree, the requestor in this instance provided the requisite information. You indicate the submitted recording was required to be made by law or the policies of the city's police department and the recording relates to a law enforcement purpose. *See id.* § 1701.661(h). Further, you indicate the recording is or could be used as evidence in a criminal prosecution. *See id.* § 1701.661(d). We note, however, section 1701.661(f) provides, in relevant part:

A law enforcement agency may not release any portion of a recording made in a private space . . . 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). Upon review, we find portions of the submitted information consist of a body worn camera recording made in a private space. *See id.* § 1701.651(3) (defining "private space" for purposes of section 1701.661(f)). We note the requestor provided this office with written authorizations for release from both of the subjects of the recording. However, we are unable to determine whether the written authorizations for release have been provided to the city. Thus, we must rule conditionally. To the extent the written authorizations at issue have been provided to the city, the city may not withhold any portion of the submitted recording under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code. However, to the extent the written authorizations at issue have not been provided to the city, the portions of the recording we indicated must be withheld under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code. However, in either event, we find the city has failed to demonstrate the remaining information consists of a recording made in a private space for purposes of section 1701.661(f). Therefore, the remaining information is not confidential under section 1701.661(f) of the Occupations Code, and the city may not withhold it under section 552.101 of the Government Code on that basis. As you raise no other exceptions against disclosure, the remaining information must be released.

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,



Ian Lancaster
Assistant Attorney General
Open Records Division

IML/akg

Ref: ID# 611109

Enc. Submitted documents

c: Requestor
(w/o enclosures)