



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 12, 2018

Ms. LeAnn M. Quinn
City Secretary
City of Cedar Park
450 Cypress Creek Road
Cedar Park, Texas 78613

OR2018-00952

Dear Ms. Quinn:

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# 691503 (Reference Number 18-066).

The City of Cedar Park (the "city") received a request for information pertaining to a specified incident involving the requestor. You state you have released some 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 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 recordings from a city police department officer's body worn cameras. Body worn cameras are subject to chapter 1701 of the Occupations Code. Section 1701.661(a) of the Occupations Code provides:

(a) 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, we find the requestor does not provide the requisite information under section 1701.661(a) for one of the submitted recordings, which we have noted. As the body worn camera recording at issue was not properly requested pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information and it need not be released. However, pursuant to section 1701.661(b), a “failure to provide all the information required by [s]ubsection (a) to be part of a request for recorded information does not preclude the requestor from making a future request for the same recorded information.” *Id.* § 1701.661(b).

Upon review, we find the instant request includes the information required by section 1701.661(a) of the Occupations Code with respect to the remaining recordings at issue. *Id.* § 1701.661(a). Accordingly, we find the requestor properly requested the remaining body worn camera recordings at issue. Thus, we will address additional exceptions to disclosure of this information.

The body worn camera recordings at issue reflect they were required to be made by law or the policies of the city, and the information at issue reflects the recording relates to a law enforcement purpose. *See id.* § 1701.661(h). Further, we have no indication the recordings at issue could not be used as evidence in a criminal prosecution. *See id.* § 1701.661(d) (stating information “that is or could be used as evidence in a criminal prosecution is subject to the requirements of [the Act.]”). Additionally, we have no indication the 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). The submitted recordings demonstrate they were not made in a private space for the purposes of section 1701.661(f). *See id.* §§ 1701.661(f), .651(3) (defining “private space” for purposes of section 1701.661(f)). 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 inform us the submitted body worn camera recordings at issue involve the investigation of conduct that constitutes a misdemeanor punishable by fine only and which did not result in an arrest. You state the city does not have written authorization for release from all the subjects of the recordings at issue. *See id.* Accordingly, we find the city must withhold the body worn camera recordings at issue under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code.

In summary, the body worn camera recording we noted was not properly requested pursuant to chapter 1701 of the Occupations Code and it need not be released. The city must withhold the remaining body worn camera recordings 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 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,

A handwritten signature in cursive script that reads "D. Michelle Case". The signature is written in black ink and includes a stylized flourish at the end.

D. Michelle Case
Assistant Attorney General
Open Records Division

DMC/gw

Ref: ID# 691503

Enc. Submitted documents

c: Requestor
(w/o enclosures)