



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 1, 2019

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

OR2019-03051

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# 753676 (PIR No. W079352).

The City of Fort Worth (the "city") received a request for body-worn camera video recordings related to a specified motor vehicle accident. 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. The submitted information consists of recordings from an officer's body worn camera. Body worn cameras are subject to chapter 1701 of the Occupations Code. Chapter 1701 provides the procedures a requestor must follow when seeking a body worn camera recording. Section 1701.661(a) provides:

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). Upon review of the information at issue, we determine the requestor provided the information required by section 1701.661(a) of the Occupations Code for release of the submitted body worn camera recordings. The recordings at issue reflect they were required to be made by law or the policies of the city and relate to a law enforcement purpose. *See id.* § 1701.661(h). We understand the recordings are or could 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 relate to an administrative or criminal investigation of an officer. *See id.* § 1701.660(a). The 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). The city states the recordings at issue consist of body worn camera recordings involving an investigation of conduct that constitutes a misdemeanor punishable by fine only and which did not result in an arrest. The city informs us it does not have permission for release from all of the subjects of the recordings. *See id.* Accordingly, we conclude the city must withhold the submitted body worn camera recordings under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code.

Finally, the city asks this office to issue a previous determination that would permit it to withhold body worn camera recordings involving the investigation of conduct that constitutes a misdemeanor punishable by fine only and that does not result in arrest and that are without written authorization from all subjects of the recordings under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code without seeking 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 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 black ink, appearing to read 'Jesse Harvey', with a long horizontal flourish extending to the right.

Jesse Harvey
Assistant Attorney General
Open Records Division

JH/som

Ref: ID# 753676

Enc. Submitted documents

c: Requestor
(w/o enclosures)