



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

February 4, 2019

Ms. Brittaney N. Davis  
Assistant City Attorney  
City of Fort Worth  
200 Texas Street, 3rd Floor  
Fort Worth, Texas 76102

OR2019-03169

Dear Ms. Davis:

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# 748828 (PIR# W078382).

The City of Fort Worth (the "city") received a request for the entire crash investigation file for a specified incident. The city states it will release 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.

Initially, we note the submitted information includes officers' body worn camera recordings. Body worn cameras are subject to chapter 1701 of the Occupations Code. 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. 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). We note the requestor provided the requisite information under section 1701.661(a) for some of the body worn camera recordings at issue. As these body worn camera recordings were properly requested pursuant to chapter 1701 of the Occupations Code, we will address your argument against their disclosure, as well as the remaining information. However, the requestor did not give the requisite information under section 1701.661(a) for the remaining body worn camera recording at issue. As the requestor did not properly request the remaining body worn camera recording, which we indicated, pursuant to chapter 1701, our ruling does not reach this information, and it need not be released to the requestor.<sup>1</sup> However, pursuant to section 1701.661(b), a “failure to provide all the information required by Subsection (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).

We note the requestor provides the requisite information for the remaining body worn camera recordings. We understand the remaining recordings were required to be made by law or the policies of the department and the recordings relate to a law enforcement purpose. *See id.* § 1701.661(h). Further, we understand the recordings are or could be used as evidence in a criminal prosecution. *See id.* § 1701.661(d). 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). 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 state the remaining recordings involve an investigation of conduct that constitutes a misdemeanor punishable by fine only and did not result in arrest. You further state you have not received written authorization for release from all of the subjects of the remaining video recordings. *See id.* § 1701.661(f). Accordingly, we find the city must withhold the remaining recordings under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code.

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<sup>1</sup>As we are able to make this determination, we need not address your argument against disclosure of this information.

Section 552.101 of the Government Code also encompasses information made confidential by other statutes, including section 143.090 of the Local Government Code, which provides as follows:

A department, [the Fire Fighters' and Police Officers' Civil Service Commission], or municipality may not release a photograph that depicts a police officer unless:

- (1) the officer has been charged with an offense by indictment or by information;
- (2) the officer is a party in a civil service hearing or a case before a hearing examiner or in arbitration;
- (3) the photograph is introduced as evidence in a judicial proceeding;  
or
- (4) the officer gives written consent to the release of the photograph.

Local Gov't Code § 143.090. You inform us the city is a civil service city under chapter 143 of the Local Government Code. You state the remaining information consists of photographs depicting police officers employed by the city's police department. You also state none of the exceptions under section 143.090 apply. Based on your representations and our review, we conclude the city must withhold the information you indicated under section 552.101 of the Government Code in conjunction with section 143.090 of the Local Government Code.

In summary, as the requestor did not properly request the body worn camera recording we indicated pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information and the city need not release it. 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. The city must withhold the information you indicated under section 552.101 of the Government Code in conjunction with section 143.090 of the Local Government 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 black ink, appearing to read "D. Michelle Case", with a long horizontal flourish extending to the right.

D. Michelle Case  
Assistant Attorney General  
Open Records Division

DMC/eb

Ref: ID# 748828

Enc. Submitted documents

c: Requestor  
(w/o enclosures)