



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 14, 2019

Mr. Christopher K. Austria
Assistant City Attorney
City of Fort Worth
200 Texas Street, 3rd Floor
Fort Worth, Texas 76102-6311

OR2019-07082

Dear Mr. Austria:

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# 754492 (Ref. No. W079606).

The City of Fort Worth (the "city") received a request for information pertaining to a specified motor vehicle accident involving the requestor's client, including body worn camera recordings. You state the city will release some information to the requestor. You claim the requested body worn camera recordings are 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, which consists of a body worn camera recording, is not responsive to the present request for information because it does not pertain to the motor vehicle accident specified in the request. This ruling does not address the public availability of any information that is not responsive to the present request, and the city is not required to release such information in response to this request.¹

Next, we must address the city's obligations under the Act. We note the present request, in part, seeks officers' body worn camera recordings. Body worn cameras are subject to chapter

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

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). In this instance, the requestor provided the requisite information under section 1701.661(a) for the requested body worn camera recordings. Section 1701.662 of the Occupations Code provides, in relevant part:

(c) Notwithstanding Section 552.301(e), Government Code, a governmental body's submission to the attorney general of the information required by that subsection regarding a requested body worn camera recording is considered timely if made not later than the *25th business day* after the date of receipt of the written request.

See id. § 1701.662(c) (emphasis added). Pursuant to section 552.301(e) of the Government Code, a governmental body is required to submit to this office (1) written comments stating the reasons why the claimed exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. Gov't Code § 552.301(e)(1)(A)-(D). Thus, while section 1701.662(c) overrides the time deadline of section 552.301(e), it does not override the governmental body's obligation to submit the requested information pursuant to section 552.301(e). The city states it received the present request for information on December 19, 2018. However, as of the date of this letter, the city has failed to submit a copy or representative sample of the requested body worn camera recordings. Therefore, to the extent such recordings exist, we conclude the city failed to comply with the time requirements of section 1701.662(c) of the Occupations Code and the submission requirements of section 552.301(e) of the Government Code.

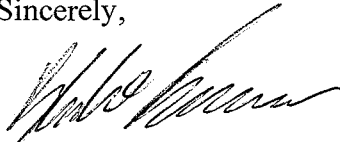
Pursuant to section 552.302 of the Government Code, a governmental body's failure to submit to this office the information required by section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a

compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ). Although you raise an exception to disclosure, because the city has not submitted the requested information for our review, we have no basis for finding any of the information at issue excepted from disclosure. Thus, we have no choice but to order the requested information, to the extent it exists, released pursuant to section 552.302. If the city believes the information may not lawfully be released, it must challenge this ruling in court pursuant to section 552.324 of the 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,



Blake Brennan
Attorney
Open Records Division

BB/eb

Ref: ID# 754492

Enc. Submitted documents

c: Requestor
(w/o enclosures)