



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 23, 2019

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

OR2019-13753

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# 766873 (PIR# W082184).

The City of Fort Worth (the "city") received a request for information pertaining to a specified motor vehicle collision. 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.

The submitted information consists of an officers' body worn camera recording. Body worn cameras are subject to chapter 1701 of the Occupations Code. We note the body worn camera recording was properly requested under section 1701.661(a) of the Occupations Code. *See* Occ. Code § 1701.661(a) (when submitting written request for information recorded by body worn camera, member of the public must provide date and approximate time, specific location, and name of one or more persons known to be the subject of recording). The recording at issue reflects it was required to be made by law or the policies of the city's police department and relates to a law enforcement purpose. *See id.* § 1701.661(h). Further, we understand the recording is or could be used as evidence in a criminal prosecution. *See id.* § 1701.661(d). Additionally, we have no indication the recording documents 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 recording demonstrates it was 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). In this instance, the city informs us the body worn camera recording at issue involves an investigation of conduct that constitutes a misdemeanor punishable by fine only and did not result in arrest. Further, the city informs us it has not received written authorizations for release from all of the subjects of the recording. Accordingly, the submitted body worn camera recording is confidential and the city must withhold it 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 subject to section 1701.661(f) of the Occupations Code without requesting 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,



D. Michelle Case
Assistant Attorney General
Open Records Division

DMC/mo

Ref: ID# 766873

Enc. Submitted documents

c: Requestor
(w/o enclosures)