



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 25, 2020

Ms. Brittaney N. Davis
Assistant City Attorney
City of Fort Worth
200 Texas Street, 3rd Floor
Fort Worth, Texas 76102-6311

OR2020-05969

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# 813281 (PIR No. W094208).

The City of Fort Worth (the "city") received a request for information pertaining to a specified incident. You state you have released some information. You claim some of the information was not properly requested pursuant to chapter 1701 of the Occupations Code. You also claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. Additionally, you state, and provide documentation showing, the city notified the next of kin of a deceased individual of the right to submit comments to this office explaining why the information at issue should not be released. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the submitted arguments 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." *Id.* § 552.101. You claim the submitted information, which consists of body worn camera recordings, was not properly requested pursuant to section 1701.661 of the Occupations Code. 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 the following:

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 our review of the submitted information, we determine the requestor provided the requisite information under section 1701.661(a) for the body worn camera recordings at issue. However, section 1701.661(f) of the Occupations Code provides:

A law enforcement agency may not release any portion of a recording made in a private space, or 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 submitted body worn camera recordings involve an investigation of conduct that constitutes a misdemeanor punishable by fine only and that did not result in an arrest. Further, you state, and we agree a portion of the video recordings was made in a private space. *See id.* § 1701.651(3) (defining "private space" for purposes of section 1701.661(f)). You state the city has not received written authorization for release from the all of the subjects of the recordings or their authorized representatives. Accordingly, the city must withhold the submitted recordings under section 552.101 in conjunction with section 1701.661(f).¹

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable

¹ As our ruling is dispositive, we need not address the remaining arguments against disclosure of the submitted information.

charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink that reads "Erin Groff". The signature is written in a cursive, flowing style.

Erin Groff
Assistant Attorney General
Open Records Division

EMG/mo

Ref: ID# 813281

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)