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ATTORNEY GENERAL OF TEXAS

February 25, 2020

Mr. Robert Carroll
Senior Assistant City Attorney
City of Odessa
P.O. Box 4398
Odessa, Texas 79760-4398

OR2020-06023

Dear Mr. Carroll:

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# 813549 (Reference #R000776-111519).

The City of Odessa (the "city") received a request for body worn camera and dash camera video recordings from a vehicle accident involving the requestor's client. We understand the city has released some information. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

The submitted information consists of a police officer's body worn camera recordings. 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.

¹ Although you do not cite section 552.108 of the Government Code in your brief, we understand you to raise this exception based upon the substance of your arguments.

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 arguments against their disclosure. 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 this 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.² 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).

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. This section encompasses information made confidential by other statutes. Body worn cameras are subject to chapter 1701 of the Occupations Code. As noted above, the requestor provides the requisite information for the body worn camera recordings at issue. We note, however, section 1701.661(f) provides, in relevant part:

A law enforcement agency may not release any portion 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.

Occ. Code § 1701.661(f). You state the video recordings at issue pertain to the investigation of conduct that constitutes a misdemeanor punishable by fine only and which did not result in an arrest. You state the city has not received written authorizations for release from all subjects of the recordings. *See id.* Accordingly, we find the city must withhold the remaining video recordings under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code.³

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 it need not be released. The city must withhold the remaining video recording under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code.

²As we are able to make this determination, we need not address your arguments against disclosure of this information.

³ As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

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 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,



Kieran Hillis
Assistant Attorney General
Open Records Division

KH/rm

Ref: ID# 813549

Enc. Submitted documents

c: Requestor
(w/o enclosures)