



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

June 10, 2020

Ms. Melba F. Barreiro  
City of Bryan  
P.O. Box 1000  
Bryan, Texas 77805

OR2020-15733

Dear Ms. Barreiro:

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# 833195.

The Bryan Police Department (the "department") received a request for information pertaining to a specified accident. The department states it has released some of the requested information, but claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the submitted arguments and reviewed the submitted information. We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

The submitted information consists of police officers' 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 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). 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 the department's arguments against their disclosure. However, the requestor did not give the requisite information under section 1701.661(a) for the remaining body worn camera recordings at issue. As the requestor did not properly request these body worn camera recordings 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).

Section 552.101 of the Government Code exempts 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). The department states the video recordings at issue pertain to the investigation of conduct that constitutes a misdemeanor punishable by fine only and did not result in an arrest. The department also states it has not received written authorizations for release from all subjects of the recordings. *See id.* Accordingly, we find the department must withhold the remaining body worn camera video recordings under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code.

In summary, for the body worn camera recordings that the requestor did not properly request pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information and it need not be released. The department must withhold the remaining body worn camera video recordings under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations 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.

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

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,

James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/rm

Ref: ID# 833195

Enc. Submitted documents

c: Requestor  
(w/o enclosures)