



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 15, 2020

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

OR2020-17552

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# 835569.

The City of Bryan (the "city") received a request for information pertaining to a specified motor vehicle accident. You state the city has released some of the requested 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. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (permitting interested third party to submit to attorney general reasons why requested 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:

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 one of the body worn camera recordings. As this body worn camera recording was properly requested pursuant to chapter 1701 of the Occupations Code, we will address your argument against its disclosure. However, the requestor did not give the requisite information under section 1701.661(a) for the remaining body worn camera recording, which we indicated. As the requestor did not properly request the remaining body worn camera recording pursuant to chapter 1701, our ruling does not reach this information, and it need not be released to the requestor.¹ 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 recording at issue. We note, however, section 1701.661(f) provides, in relevant part:

A law enforcement agency may not release any portion made . . . 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 body worn camera recording at issue pertains to the investigation of conduct that constitutes a misdemeanor punishable by fine only and which did not result in an arrest. Although the requestor argues section 552.023 gives the requestor a right of access to the information at issue, we note section 1701.661(f) protects the privacy of all subjects of the video and requires the consent of each subject for the information to be released. You state the city has not received written authorizations for release from all subjects of the recording. *See* Gov’t Code § 552.023(b) (“A governmental body may not deny access to information to the person, or the person’s representative, to whom the information relates on the grounds that the information is considered confidential by privacy principles under this chapter but may assert as grounds for denial of access other provisions of this chapter or other law that are not intended to protect the person’s privacy interests.”); Occ. Code § 1701.661(f). Accordingly, we find the city must withhold the remaining body worn camera recording under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code.

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

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 body worn camera recording 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.

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,

Jahna Ward
Assistant Attorney General
Open Records Division

JW/jlbm

Ref: ID# 835569

Enc. Submitted documents

c: Requestor
(w/o enclosures)