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ATTORNEY GENERAL OF TEXAS

August 31, 2020

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

OR2020-21818

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# 842361 (Ref. No. P003491-061220).

The City of Odessa (the "city") received a request for the probable cause affidavit, photographs, and video recordings pertaining to a specified incident. We understand the city does not have information responsive to the portion of the request seeking photographs pertaining to the specified incident. You claim the submitted information was not properly requested pursuant to section 1701.661 of the Occupations Code. We have considered your argument and reviewed the submitted information.

Initially, we note the city has not submitted the probable cause affidavit specified in the present request for information. To the extent any additional information responsive to the request existed on the date the city received the present request, we assume the city has already released it. If the city has not released any such information, it must do so at this time. *See Gov't Code §§ 552.301(a), .302; see also Open Records Decision No. 664 (2000)* (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

We note the submitted information includes a police officer's body worn camera recording. 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). In this instance, the requestor does not provide the requisite information under section 1701.661(a). As the body worn camera recording at issue was not properly requested pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information and the city need not release it. However, pursuant to section 1701.661(b), a “failure to provide all the information required by [s]ubsection (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). Upon review, we note the remaining information at issue does not consist of a body worn camera recording. Therefore, the remaining information is not subject to section 1701.661 of the Occupations Code, and the city may not withhold any portion of it on that basis. As you raise no exceptions to disclosure for the remaining information at issue, the city must release it.

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,

Blake Brennan
Assistant Attorney General
Open Records Division

BBX/mo

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Enc. Submitted documents

c: Requestor
(w/o enclosures)