



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 15, 2020

Mr. Jim Kachelmeyer
Assistant City Attorney
City Georgetown
P.O. Box 409
Georgetown, Texas 78627-0409

OR2020-23324

Dear Mr. Kachelmeyer:

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# 845545 (PIR# G0011012-070720)

The City of Georgetown (the "city") received two requests from different requestors for information pertaining to a specified incident. You state the city has released some information. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted representative sample of information.²

Initially, we note some of 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 provides, in relevant part, the following:

(a) A member of the public is required to provide the following information

¹ We note the city did not comply with section 552.301 of the Government Code in requesting a ruling from this office with respect to the first requestor. *See* Gov't Code § 552.301(b), (e). Nonetheless, because sections 552.101 and 552.130 of the Government Code can provide compelling reasons to overcome the presumption of openness, we will consider their applicability to the submitted information. *See id.* §§ 552.007, .302, .352

² We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

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 first requestor does not give the requisite information under section 1701.661(a). As the first requestor did not properly request the submitted body worn camera recordings pursuant to chapter 1701, our ruling does not reach this information and it need not be released.³ Additionally, the second requestor does not provide the requisite information under section 1701.661(a) for some of the submitted body worn camera recordings. As these body worn camera recordings were not properly requested pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information and it need not be released to the second requestor.⁴ 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). However, as the second requestor did provide the requisite information under section 1701.661(a) for some of the submitted body worn camera recordings, which we have marked, we will address your argument for this information. We will further address your argument against disclosure as to the remaining information.

The city asserts the remaining video recordings contain motor vehicle record information that is excepted from disclosure under section 552.130 of the Government Code. Section 552.130 provides information relating to a motor vehicle operator’s or driver’s license or permit, or motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. Gov’t Code § 552.130(a). Upon review, we agree the remaining video recordings contain motor vehicle record information. In this instance, the city states it does not possess the technological capability to redact information from video files. Thus, we agree the city must withhold the entireties of the remaining video recordings under section 552.130 of the Government Code.⁵ *See* Open Records Decision No. 364 (1983).

In summary, as the first requestor did not properly request the submitted body worn camera recordings at issue pursuant to chapter 1701 of the Occupations Code, our ruling does not

³ As we are able to make this determination, we need not address your remaining arguments against disclosure of this information.

⁴ As we are able to make this determination, we need not address your remaining arguments against disclosure of this information.

⁵ As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

reach this information, and the city need not release this information to the first requestor. As the second requestor did not properly request some of the submitted body worn camera recordings at issue pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information, and the city need not release this information to the second requestor. The city must withhold the entireties of the remaining video recordings under section 552.130 of the Government 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,

Kelly McWethy
Assistant Attorney General
Open Records Division

KM/mo

Ref: ID# 845545

Enc. Submitted documents

c: Requestor
(w/o enclosures)