



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 2, 2020

Mr. Brandon S. Shelby
City Attorney
City of Sherman
P.O. Box 1106
Sherman, Texas 75091

OR2020-30012

Dear Mr. Shelby:

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# 855806 (ORR# 4945).

The City of Sherman (the "city") received two requests from different requestors for information pertaining to a specified accident. The city claims the submitted information is excepted from disclosure under sections 552.101, 552.1085, and 552.1175 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

The submitted information includes body worn camera recordings of city police officers. 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). Neither requestor gives the requisite information under section 1701.661(a). As the requestors did not properly request the body worn camera recordings at issue pursuant to chapter 1701, our ruling does not reach these recordings and the city is not required to release them. 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 552.1085 of the Government Code provides, in pertinent part, the following:

(c) A sensitive crime scene image in the custody of a governmental body is confidential and excepted from the requirements of Section 552.021 and a governmental body may not permit a person to view or copy the image except as provided by this section. This section applies to any sensitive crime scene image regardless of the date that the image was taken or recorded.

(d) Notwithstanding Subsection (c) and subject to Subsection (e), the following persons may view or copy information that constitutes a sensitive crime scene image from a governmental body:

(1) the deceased person’s next of kin[.]

Gov’t Code § 552.1085(c), (d)(1). For purposes of section 552.1085, “sensitive crime scene image” means “a photograph or video recording taken at a crime scene, contained in or part of a closed criminal case, that depicts a deceased person in a state of dismemberment, decapitation, or similar mutilation or that depicts the deceased person’s genitalia.” *See id.* § 552.1085(a)(6). The city informs us the submitted photographs consist of sensitive crime scene images that were taken at a crime scene as part of a criminal case that is now closed. Upon review, we agree the submitted photographs consist of sensitive crime scene images that the city must generally withhold under section 552.1085(c) of the Government Code.

However, the second requestor may represent the next of kin of the deceased person depicted in the submitted photographs. *See id.* § 552.1085(a)(1) (defining “deceased person’s next of kin”). In that event, the second requestor would have a right to view or copy the submitted photographs pursuant to section 552.1085(d)(1). *See id.* § 552.1085(d)(1). Therefore, if the second requestor represents the deceased person’s next of kin, then the city must release the submitted photographs to him pursuant to section 552.1085(d)(1) of the Family Code.

In summary, because the requestors did not properly request the submitted body worn camera recordings pursuant to chapter 1701 of the Occupations Code, our ruling does not

reach the body worn camera recordings at issue and the city is not required to release them. The city must withhold the submitted photographs under section 552.1085(c) of the Government Code; however, the city must release these photographs to the second requestor pursuant to section 552.1085(d)(1) of the Government Code if he represents the deceased person's next of kin.

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,

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/mo

Ref: ID# 855806

Enc. Submitted documents

c: Requestor
(w/o enclosures)