



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 22, 2022

Ms. Mayra Gonzales
City Secretary
City of Galena Park
P.O. Box 46
Galena Park, Texas 77547

OR2022-08203

Dear Ms. Gonzales:

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# 937060.

The City of Galena Park (the "city") received a request for specified body worn camera footage.¹ 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 (interested party may submit comments stating why information should or should not be released).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This section encompasses section 1701.660 of the Occupations Code, which provides, in relevant part:

(a) Except as provided by Subsection . . . (b), a recording created with a body worn camera and documenting an incident that involves the use of deadly force by a peace officer or that is otherwise related to an administrative or

¹ The city states it sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

criminal investigation of an officer may not be deleted, destroyed, or released to the public until all criminal matters have been finally adjudicated and all related administrative investigations have concluded.

Occ. Code § 1701.660(a). You state the submitted body worn camera recording relates to pending administrative and criminal investigations of a city police officer. *See id.* However, the requestor asserts there are no pending administrative or criminal investigations related to the information at issue. Whether the information at issue relates to a pending administrative or criminal investigation is a question of fact. Open Records Decision Nos. 592 at 2 (1991), 552 at 4 (1990), 435 at 4 (1986). This office is unable to resolve disputes of fact in the open records ruling process. Accordingly, we must rely upon the facts alleged to us by the governmental body requesting our opinion, or upon those facts that are discernable for the documents submitted for our inspection. *See* ORD 552 at 4. Further, we understand the city does not seek to exercise its discretion to release the body worn camera recording at issue pursuant to section 1701.660(b) of the Occupations Code. *See id.* § 1701.660(b) (law enforcement agency may release to the public a recording described by Subsection (a) if the law enforcement agency determines that the release furthers a law enforcement purpose). Accordingly, the city must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 1701.660(a) of the Occupations Code.²

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,

Colin Henry
Attorney
Open Records Division

CEH/jxd

² As we are able to make this determination, we do not address the applicability of section 1701.661(a) of the Occupations Code to the submitted video recording. *See generally* Occ. Code § 1701.661(a), (e).

Ms. Mayra Gonzales - Page 3

Ref: ID# 937060

Enc. Submitted documents

c: Requestor
(w/o enclosures)