



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 8, 2017

Ms. Charla Thomas
Deputy City Attorney
City of Temple
2 North Main Street, Suite 308
Temple, Texas 76501

OR2017-17893

Dear Ms. Thomas:

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# 669830.

The Temple Police Department (the "department") received three requests for information pertaining to a specified accident. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

Initially, we note you have only submitted video recordings pertaining to the specified accident. To the extent any additional information responsive to the request existed on the date the department received the request, we assume the department has released it. If the department 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).

¹We note the department failed to comply with its procedural obligations under the Act regarding the first request. *See Gov't Code* § 552.301(b), (e). Nonetheless, because section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

We note the submitted information includes 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). In this instance, the requestors do not give the requisite information under section 1701.661(a). As the requestors did not properly request the body worn camera recordings pursuant to chapter 1701, our ruling does not reach this information and it need not be released. 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). Upon review, we find the remaining video recordings do not consist of a police officer's body worn camera recordings. Therefore, the remaining information is not subject to section 1701.661 of the Occupations Code. Accordingly, we will consider if it is otherwise excepted under the Act.

Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential.² Gov't Code § 552.1175. Section 552.1175 applies, in part, to "peace officers as defined by Article 2.12, Code of Criminal Procedure[.]" *Id.* § 552.1175(a)(1). We note the information at issue is held in a law enforcement capacity and may be subject to section 552.1175. Therefore, to the extent the officer at issue elects to restrict access to the information in accordance with section 552.1175(b), then the department must withhold the information we indicated under section 552.1175 of the Government Code. If no election is made, then the department may not withhold the information at issue under section 552.1175(b) of the Government Code.

²The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, 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. *See id.* § 552.130. Accordingly, the department must withhold all audible and discernible motor vehicle record information in the remaining recordings under section 552.130 of the Government Code.

In summary, as the requestors did not properly request the body worn camera recordings pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information and it need not be released. To the extent the officer at issue elects to restrict access to the information in accordance with section 552.1175(b) of the Government Code, then the department must withhold the information we indicated under section 552.1175 of the Government Code. The department must withhold all audible and discernible motor vehicle record information in the remaining recordings under section 552.130 of the Government Code. The department must release the remaining information.

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 http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Emily Kunst
Attorney
Open Records Division

EK/eb

Ref: ID# 669830

Enc. Submitted documents

c: 3 Requestors
(w/o enclosures)