



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 28, 2017

Ms. Kayla Landeros
City Attorney
Legal Department
City of Temple
2 North Main Street, Suite 308
Temple, Texas 76501

OR2017-19588

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# 679420.

The City of Temple (the "city") received two requests for information pertaining to a specified incident. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, 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 first requestor does not give the requisite information under section 1701.661(a). As this requestor did not properly request the body worn camera recordings at issue pursuant to chapter 1701, our ruling does not reach this information and it need not be released to the first requestor. 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). As the second requestor did provide the requisite information under section 1701.661(a), we will address the city’s arguments for the submitted body worn camera recordings as to the second requestor.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This section encompasses information protected by other statutes, such as section 58.007 of the Family Code. The relevant language of section 58.007 reads:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

- (1) if maintained on paper or microfilm, kept separate from adult files and records;
- (2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and
- (3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapters B, D, and E.

Fam. Code § 58.007(c). Under section 58.007, juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997, are confidential. *See id.* § 51.03(a), (b) (defining “delinquent conduct” and “conduct indicating a need for supervision”). For purposes of section 58.007(c), a “child” is a person who is ten years of age or older and under seventeen years of age at the time of the reported conduct. *See id.* § 51.02(2). The submitted information involves juvenile delinquent conduct that occurred after September 1, 1997. You do not indicate, nor does it appear, that any of the exceptions in section 58.007 apply to this information with respect to the second requestor. Therefore, the submitted information is confidential under section 58.007(c) of the Family Code and must be withheld

in its entirety from the second requestor under section 552.101 of the Government Code. However, we note the first requestor is a step-parent of the named juvenile offender and, therefore, may have access to the information at issue pursuant to section 58.007(e) as the child's legal guardian. *See id.* § 58.007(e). Therefore, we must rule conditionally. If the first requestor is not a legal guardian of the juvenile offender at issue, then the city must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. If the first requestor is a legal guardian of the juvenile offender at issue, then the city may not withhold the information at issue on that ground. *See id.* § 58.007(e). In that instance, the city must release the information at issue to this requestor pursuant to section 58.007(e) of the Family Code. We note, however, section 58.007(j)(2) provides that information subject to any other exception to disclosure under the Act or other law must be redacted. *Id.* § 58.007(j)(2). In the event the first requestor does have a right of access to the information at issue, we will consider the city's argument under section 552.108 against disclosure of this information.

Section 552.108(a)(1) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov't Code § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted information relates to a pending investigation. Based on your representation and our review, we find release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, section 552.108(a)(1) is applicable to the submitted information

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See* Open Records Decision No. 127 (1976) (summarizing types of information made public by *Houston Chronicle*). Therefore, with the exception of basic information, the city may withhold the submitted information from the first requestor under section 552.108(a)(1) of the Government Code.

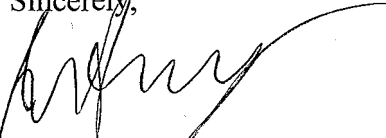
In summary, the city must withhold the information at issue in its entirety from the second requestor under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. With respect to the first requestor, pursuant to section 1701.661 of the Occupations Code, our ruling does not reach the body worn camera recordings at issue, and the city need not release the submitted body worn camera recordings at issue in response to the first request for information. If the first requestor is not a legal

guardian of the juvenile offender at issue, then the city must withhold the submitted information in its entirety from the first requestor under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. If the first requestor is a legal guardian of the juvenile offender at issue, then, with the exception of basic information, which must be released to the first requestor, the city may withhold the submitted information under section 552.108(a)(2) 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 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,



Jesse Harvey
Assistant Attorney General
Open Records Division

JH/som

Ref: ID# 679420

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)