



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 3, 2017

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

OR2017-25219

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# 684907.

The City of Temple (the "city") received a request for all information pertaining to a specified motor vehicle accident. The city claims some of the submitted information is not subject to disclosure pursuant to section 1701.661 of the Occupations Code. We have considered the city's arguments and reviewed the submitted information.

Initially, we note the city has only submitted video recordings. Thus, to the extent any additional responsive information existed when the present request was received, we assume it has been released. If such information has not been released, then it must be released at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

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 made confidential by other statutes. We note a portion of the submitted information consists of a police officer's body worn camera. Body worn cameras are subject to chapter 1701 of the Occupations Code. Section 1701.661(a) of the Occupations Code provides:

(a) 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). We note the requestor provided the information required by section 1701.661(a) of the Occupations Code for release of the body worn camera recording at issue. We understand the submitted recording was required to be made by law or the policies of the city's police department and the recording relates to a law enforcement purpose. *See id.* § 1701.661(h). We also understand the recording at issue is or could be used as evidence in a criminal prosecution. *See id.* § 1701.661(d). Additionally, we have no indication the recording documents an incident that involves the use of deadly force by an officer or relates to an administrative or criminal investigation of an officer. *See id.* § 1701.660(a). The submitted recording demonstrates it was not made in a private space for the purposes of section 1701.661(f). *See id.* §§ 1701.661(f), .651(3) (defining "private space" for purposes of section 1701.661(f)). We note, however, section 1701.661(f) provides, in relevant part:

A law enforcement agency may not release any portion . . . of a recording involving the investigation of conduct that constitutes a misdemeanor punishable by fine only and does not result in arrest, without written authorization from the person who is the subject of that portion of the recording or, if the person is deceased, from the person's authorized representative.

Id. § 1701.661(f). The city states the information at issue consists of a body worn camera recording involving the investigation of conduct that constitutes a misdemeanor punishable by fine only and which did not result in an arrest. We note the city does not have permission for release from all of the subjects in the recording at issue. *See id.* Accordingly, we find the city must withhold the submitted body worn camera video recording under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code.

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.¹ *See* Gov't Code § 552.130(a). We find portions of the remaining information contain motor vehicle record information. Because section 552.130 protects personal privacy, the requestor has a right of access to motor vehicle record information of his clients pursuant to section 552.023 of the Government Code. *See id.* § 552.023(a) (“person’s authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and that is protected from public disclosure by laws intended to protect that person’s privacy interests”); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). Thus, the city must withhold the discernible license plate numbers that do not belong to the requestor’s client under section 552.130 of the Government Code.

In summary, the city must withhold the submitted body worn camera video recording under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code. The city must withhold the discernible license plate numbers that do not belong to the requestor’s client under section 552.130 of the Government Code. The remaining information must be released.

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,



Rahat Huq
Assistant Attorney General
Open Records Division

RSH/tdw

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Ref: ID# 684907

Enc. Submitted documents

c: Requestor
(w/o enclosures)