



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 20, 2019

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

OR2019-07745

Dear Ms. Warren:

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# 755414.

The City of Temple (the "city") received a request for ten categories of information pertaining to a specified motor vehicle accident involving the requestor's clients. 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.

Initially, we note that you have submitted only body worn camera recordings in response to the request. To the extent any additional responsive information existed on the date the city received this request, we assume you have released it. If you have not released any such records, you 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 that no exceptions apply to requested information, it must release information as soon as possible).

Section 552.101 of the Government Code excepts from required public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information made confidential by other statutes. Body worn cameras are subject to chapter 1701 of the

Occupations Code, and the release of information recorded by body worn cameras is governed by section 1701.661 of the Occupations Code.

We note the body worn camera recordings were properly requested under section 1701.661 (a) of the Occupations Code. *See* Occ. Code § 1701.661(a) (when submitting written request for information recorded by body worn camera, requestor must provide date and approximate time, specific location, and the name of at least one person known to be the recording's subject). We understand the submitted recordings were required to be made by law or the policies of the city's police department and the recordings relate to a law enforcement purpose. *See id.* § 1701.661(h). Further, we understand the recordings are or could be used as evidence in a criminal prosecution. *See id.* § 1701.661(d). We also have no indication the body camera recordings document 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.* § 1701.661(a). The submitted recordings demonstrate they was not made in a private space for purposes of section 1701.661(f). *See id.* § 1701.661(f), .651(3) (defining "private space" for purposes of section 1701.661(f)). However, section 1701.661(f) provides, in pertinent 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 informs us the submitted recordings at issue involve an investigation of conduct that constitutes a misdemeanor punishable by fine only and that did not result in an arrest. Moreover, you state the city has not received written authorization for release from all the subjects of the recording. *See id.* § 1701.661(f). Based on these representations, we conclude the submitted body worn camera recordings are confidential and the city must withhold them under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations 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,

A handwritten signature in cursive script, appearing to read "Ashley Crutchfield".

Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/jxd

Ref: ID# 755414

Enc. Submitted documents

c: Requestor
(w/o enclosures)