



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 24, 2019

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

OR2019-17123

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# 771677.

The City of Temple (the "city") received a request for all records pertaining to a specified accident. The city claims the requestor did not properly request the submitted body worn camera recordings pursuant to section 1701.661 of the Occupations Code. Additionally, the city claims some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the city's arguments and reviewed the submitted information.

Initially, we note the city has only submitted certain records in response to the request for information. To the extent any additional information responsive to the request existed on the date the city received the request, we assume the city has released it. If the city 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).

As previously noted, the submitted information includes city 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 provides, in relevant part, the following:

(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). In this instance, the requestor does not provide the requisite information under section 1701.661(a). As the body worn camera recordings at issue were not properly requested 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 [s]ubsection (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).

Section 552.101 of the Government Code excepts “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Section 552.101 encompasses information protected by section 773.091 of the Health and Safety Code, which provides in part:

(a) A communication between certified emergency medical services [(“EMS”)] personnel or a physician providing medical supervision and a patient that is made in the course of providing [EMS] to the patient is confidential and privileged and may not be disclosed except as provided by this chapter.

(b) Records of the identity, evaluation, or treatment of a patient by [EMS] personnel or by a physician providing medical supervision that are created by the [EMS] personnel or physician or maintained by an [EMS] provider are confidential and privileged and may not be disclosed except as provided by this chapter.

...

(g) The privilege of confidentiality under this section does not extend to information regarding the presence, nature of injury or illness, age, sex, occupation, and city of residence of a patient who is receiving emergency medical services.

Health & Safety Code § 773.091(a)-(b), (g). The remaining information consists of records made and maintained by EMS personnel. Upon review, we find section 773.091 is

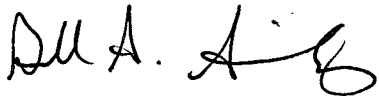
applicable to the remaining information. Thus, with the exception of the information subject to section 773.091(g), which is not confidential, the city must withhold the remaining information under section 552.101 of the Government Code in conjunction with section 773.091(b) of the Health and Safety Code.¹

In summary, pursuant to section 1701.661 of the Occupations Code, our ruling does not reach the body worn camera recordings at issue and they need not be released. With the exception of the information subject to section 773.091(g), which must be released, the city must withhold the remaining information under section 552.101 of the Government Code in conjunction with section 773.091(b) of the Health and Safety 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,



Gerald A. Arismendez
Assistant Attorney General
Open Records Division

GAA/jxd

Ref: ID# 771677

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹We note this ruling does not affect an individual's right of access to a patient's EMS records from the EMS provider. See Health & Safety Code §§ 773.092, .093; cf. *Abbott v. Tex. State Bd of Pharmacy*, 391 S.W.3d 253 (Tex. App.—Austin 2012, no pet.) (MPA does not provide general right of access to medical records from governmental body responding to a request for information under the Public Information Act).