



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 30, 2019

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

OR2019-27224

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# 788319.

The Temple Police Department (the "department") received a request for specified information related to a specified incident. You state the department released some information. 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.

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. The submitted information includes recordings from peace officers' body worn cameras. 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 recordings at issue. We understand the submitted recordings were required to be made by law or the policies of the department and the recordings relate to a law enforcement purpose. *See id.* § 1701.661(h). We also understand the recordings at issue were or could be used as evidence in a criminal prosecution. *See id.* § 1701.661(d). Additionally, we have no indication the recordings document an incident that involves the use of deadly force by an officer or relate to an administrative or criminal investigation of an officer. *See id.* § 1701.660(a). The submitted recordings demonstrate they were 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:

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). You state the submitted body worn camera recordings involve the investigation of conduct that constitutes a misdemeanor punishable by fine only and which did not result in an arrest. You state you do not have permission for release from all of the subjects in the recordings at issue. *See id.* Accordingly, we find the department must withhold the submitted body worn camera video recordings under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code. However, we find the remaining recordings are not body worn camera recordings. Therefore, the remaining information, which consists of dashboard camera recordings, is not subject to section 1701.661 of the Occupations Code, and the department may not withhold the remaining information under section 552.101 on that basis. Accordingly, we will consider if the remaining information is otherwise excepted under the Act.

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. We note section 552.130 protects personal privacy. Thus, the requestor has a right of access to motor vehicle record information pertaining to her clients and this information may not be withheld from this requestor under section 552.130 of the Government Code. *See id.* § 552.023(a)-(b)

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).

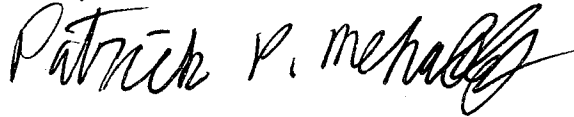
(governmental body may not deny access to person or person's representative to whom information relates on grounds that information is considered confidential under privacy principles); ORD 481 at 4 (privacy theories not implicated when individual requests information concerning himself). Accordingly, the department must withhold the information we indicated in the remaining video recordings under section 552.130 of the Government Code.

In summary, the department must withhold the submitted body worn camera video recordings under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code. The department must withhold the information we indicated in the remaining video recordings under section 552.130 of the Government Code. The department must release the remaining information.²

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Patrick P. Mehaffy
Assistant Attorney General
Open Records Division

PPM/jxd

Ref: ID# 788319

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²We note the requestor has a right of access to some of the information being released. See Gov't Code § 552.023(a); ORD 481 at 4. Thus, the department must again seek a decision from this office if it receives another request for the same information from another requestor.