



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 29, 2019

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

OR2019-30521

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# 793789.

The City of Temple (the "city") received a request for seven categories of information pertaining to a specified accident. The city claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception the city claims and reviewed the submitted information.

Initially, we note the requested information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2019-17129 (2019). In that ruling, we determined the city (1) need not release the submitted body worn camera video recordings as they were not properly requested pursuant to chapter 1701 of the Occupations Code, (2) must withhold some information under section 552.101 of the Government Code in conjunction with section 773.091(b) of the Health and Safety Code, (3) must withhold some information under section 552.130 of the Government Code, and (4) must release the remaining information. We note the body worn camera video recordings at issue are now properly requested under section 1701.661(a) of the Occupations Code. Thus, we find the circumstances have changed with respect to the body worn camera video recordings at issue, and the city may not rely on Open Records Letter No. 2019-17129 as a previous determination for this information. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling,

ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). However, we have no indication the law, facts, or circumstances on which the previous ruling was based have changed with respect to the remaining information at issue in Open Records Letter No. 2019-17129. Therefore, we conclude the city must rely on Open Records Letter No. 2019-17129 as a previous determination and withhold or release the remaining identical information in accordance with that ruling.¹ However, we will address the city's argument under section 552.101 of the Government Code against disclosure of the body worn camera video recordings at issue.

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 information at issue consists of law enforcement officers' body worn camera recordings. Body worn cameras are subject to chapter 1701 of the Occupations Code. 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). As previously noted, the requestor provided the information required by section 1701.661(a) of the Occupations Code for release of the body worn camera recordings. 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). In this instance, the city informs us the body worn camera recordings at issue involve an investigation of conduct that constitutes a misdemeanor punishable by fine only and did not result in arrest. The city states it does not have permission for release from all of the subjects of the recordings. Accordingly, the body worn camera recordings at issue

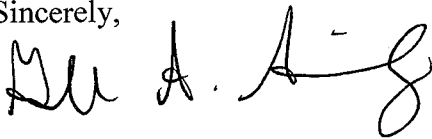
¹ As we are able to make this determination, we need not address the city's argument against disclosure of this information.

are confidential and must be withheld 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 <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,

A handwritten signature in black ink, appearing to read "Gerald Arismendez". The signature is fluid and cursive, with a large initial "G" and "A".

Gerald Arismendez
Assistant Attorney General
Open Records Division

GAA/rm

Ref: ID# 793789

Enc. Submitted documents

c: Requestor
(w/o enclosures)