



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 26, 2019

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

OR2019-33469

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# 798761.

The City of Temple (the "city") received a request for six categories of information pertaining to an incident involving the requestor's client. 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 city police officers' body worn cameras. Body worn cameras are subject to chapter 1701 of the Occupations Code. Section 1701.661(a) of the Occupations Code states the information a requestor must provide when seeking a body worn camera recording. *See* Occ. Code § 1701.661(a). We note the requestor provides the requisite information for the body worn camera recordings at issue. 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). You state the submitted recordings pertain to the investigation of conduct that constitutes a misdemeanor punishable by fine only and which did not result in an arrest. You also state you have not received a written authorization for release from the subject of the recordings. *See id.* Accordingly, we find the city must withhold the submitted body worn camera recordings under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code. We note the remaining video recordings consist of dashboard camera recordings from a city police department vehicle. This information does not consist of body worn camera recordings. Therefore, the remaining video recordings are not subject to section 1701.661 of the Occupations Code, and the city may not withhold any portion of the remaining video recordings under section 552.101 of the Government Code on that basis.

Section 552.101 of the Government Code also encompasses section 773.091 of the Health and Safety Code, which is applicable to information relating to the provision of emergency medical services (“EMS”). Section 773.091 provides, in pertinent part:

(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.

Health & Safety Code § 773.091(b). However, section 773.091 further provides:

(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 [EMS].

Id. § 773.091(g); *see id.* § 773.003(8) (defining “EMS” for purposes of chapter 773 of the Health and Safety Code). Upon review, we find the submitted report constitutes EMS records made by EMS personnel or maintained by an EMS provider. Therefore, except for the information subject to section 773.091(g), which is not confidential under section 773.091, the city must withhold the submitted report under section 552.101 of the Government Code in conjunction with section 773.091 of the Health and Safety Code.

Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle operator’s license, driver’s license, motor vehicle title, or registration issued by this state or another state or country. Gov’t Code § 552.130(a)(1), (2). We have viewed a representative sample of the submitted dashboard camera recordings. Accordingly, the city must withhold all visible license plates and audible license plate numbers under section 552.130 of the Government Code.¹

¹ We note section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See* Gov’t Code § 552.130(d), (e).

In summary, the city must withhold the submitted body worn camera recordings under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code. Except for the information subject to section 773.091(g), which is not confidential under section 773.091, the city must withhold the submitted report under section 552.101 of the Government Code in conjunction with section 773.091 of the Health and Safety Code. The city must withhold all visible license plates and audible license plate numbers under section 552.130 of the Government Code. The city 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,



Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/rm

Ref: ID# 798761

Enc. Submitted documents

c: Requestor
(w/o enclosures)

² To the extent the city identifies confidential information subject to a provision not addressed in this ruling, the city should contact the Open Government Hotline.