



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 12, 2019

Mr. Nan Rodriguez]
Deputy City Attorney
City of Temple
2 North Main Street, Suite 308
Temple, Texas 76501

OR2019-35229

Dear Mr. Rodriguez:

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# 801389.

The City of Temple (the "city") received a request for ten categories of information pertaining to a specified incident. You 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 the city has submitted only video recordings responsive to the request for information. To the extent any additional responsive information 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).

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 contains a recording from a city police officer's body worn camera. 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 recording at issue. 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 recording pertains 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 all of the subjects of the recording. *See id.* Accordingly, we find the city must withhold the submitted body worn camera recording under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code. However, we note the remaining video recording consists of a dash camera recording from a city police department vehicle. We find this information does not consist of a body worn camera recording. Therefore, this information is not subject to section 1701.661 of the Occupations Code and the city may not withhold any portion of the dash camera recording on that basis.

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 We note section 552.130 protects personal privacy. Accordingly, the requestor has a right of access to his client's motor vehicle record information under section 552.023 of the Government Code and it may not be withheld from him under section 552.130. *See id.* § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). *See Gov't Code* § 552.130. Thus, with the exception of the information belonging to the requestor's client, the city must withhold the visible license plates and vehicle registration stickers in the remaining video recording under section 552.130 of the Government Code.

In summary, the city must the body worn camera recording under section 552.101 of the Government Code in conjunction with 1701.661(f) of the Occupations Code. With the exception of the information belonging to the requestor's client, the city must withhold the visible license plates and vehicle registration stickers in the remaining video recording under section 552.130 of the Government Code. The remaining information must be released.

¹ The 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).

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 "Pearlie Gault", with a long horizontal flourish extending to the right.

Pearlie Gault
Attorney
Open Records Division

PG/eb

Ref: ID# 801389

Enc. Submitted documents

c: Requestor
(w/o enclosures)