



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 21, 2020

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

OR2020-21027

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# 841589 (Ref. Nos. 20-1327, 20-1355, & 20-1360).

The City of Temple (the "city") received three requests from different requestors for the body worn camera recordings pertaining to a specified incident. You claim some of the submitted information was not properly requested under chapter 1701 of the Occupations Code. You also claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note some of the submitted information, which we have indicated, is not responsive to the instant requests for information because it does not pertain to the specific information requested. This ruling does not address the public availability of any information that is not responsive to the requests and the city is not required to release such information in response to these requests.¹

Next, you inform us some of the requested information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2020-06519 (2020). In that ruling, we concluded, in relevant part, the city must withhold the submitted body worn camera recordings under section 552.101 of the Government Code in conjunction with section 1701.660(a) of the Occupations Code. We have no indication there has been any change in the law, facts, or circumstances on which the previous ruling

¹ As we are able to make this determination, we need not address your arguments against disclosure of this information.

was based. Accordingly, to the extent the requested information is identical to the information previously requested and ruled upon by this office, we conclude the city must rely on Open Records Letter No. 2020-06519 as a previous determination and withhold the identical information in accordance with that ruling. *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). To the extent the responsive information was not subject to the prior ruling, we will address your arguments against disclosure.

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 section 1701.660 of the Occupations Code, which provides, in relevant part:

(a) Except as provided by Subsection (b), a recording created with a body worn camera and documenting an incident that involves the use of deadly force by a peace officer or that is otherwise related to an administrative or criminal investigation of an officer may not be deleted, destroyed, or released to the public until all criminal matters have been finally adjudicated and all related administrative investigations have concluded.

Occ. Code § 1701.660(a). You state the submitted body worn camera recordings relate to an open criminal investigation of a city police officer. *See id.* Further, we understand the city does not seek to exercise its discretion to release the body worn camera recordings at issue pursuant to section 1701.660(b) of the Occupations Code. *See id.* § 1701.660(b) (law enforcement agency may release to the public a recording described by Subsection (a) if the law enforcement agency determines that the release furthers a law enforcement purpose). Accordingly, the city must withhold the responsive information under section 552.101 of the Government Code in conjunction with section 1701.660(a) of the Occupations Code.²

In summary, to the extent the requested information is identical to the information previously requested and ruled upon by this office, the city must rely on Open Records Letter No. 2020-06519 as a previous determination and withhold the identical information in accordance with that ruling. To the extent the responsive information was not subject to the prior ruling, the city must withhold the responsive information under section 552.101 of the Government Code in conjunction with section 1701.660(a) 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.

² As we are able to make this determination, we do not address the applicability of section 1701.661(a) of the Occupations Code to the submitted video recordings. *See generally* Occ. Code § 1701.661(a), (e). Additionally, as our ruling is dispositive, we need not address your remaining argument against disclosure of the submitted information.

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,

Alexandra C. Burks
Attorney
Open Records Division

ACB/rm

Ref: ID# 841589

Enc. Submitted documents

c: 3 Requestors
(w/o enclosures)