



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 10, 2022

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

OR2022-00755

Dear Ms. Rice:

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# 925120 (ORR# 21-2962).

The City of Temple (the "city") received three requests from different requestors for incident number P21078466. The city claims some of 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.

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. Body worn cameras are subject to chapter 1701 of the Occupations Code. Chapter 1701 provides the procedures a requestor must follow when seeking a body worn camera recording. 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). In this instance, the first and second requestors do not provide the requisite information under section 1701.661(a). As these requestors did not properly

request the body worn camera recordings at issue pursuant to chapter 1701 of the Occupations Code, the city need not release that information to those requestors. However, upon review, we determine the third requestor provided the information required by section 1701.661(a) of the Occupations Code for release of the submitted body worn camera recordings. Accordingly, we will consider the city's argument under section 1701.661(f), which 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). The city states the video recordings at issue consist of body worn camera recordings involving an investigation of conduct that constitutes a misdemeanor punishable by fine only and that did not result in an arrest. The city states it does not have permission for release from all of the subjects of the recordings at issue. *See id.* Accordingly, we find the city must withhold the body worn camera recordings from the third requestor under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code.

Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). Upon review, we find some of the remaining information, which we marked, satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Therefore, the city must generally withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy.

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. *See* Gov't Code § 552.130. We note section 552.130 protects personal privacy. Accordingly, the city must generally withhold the motor vehicle record information we marked under section 552.130 of the Government Code.

We note the first requestor may be one of the individuals whose private information is at issue in the submitted documents. We also note the third requestor is an authorized representative of the first requestor. Thus, to the extent any of the information we marked relates to the first requestor, the city may not withhold that information from the first or the third requestor under section 552.101 of the Government Code in conjunction with

common-law privacy or under section 552.130 of the Government Code. *See* Gov't Code § 552.023(a) (“person’s authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and that is protected from public disclosure by laws intended to protect that person’s privacy interests”); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself).

In summary, the first and second requestors did not properly request the submitted body worn camera recordings pursuant to chapter 1701 of the Occupations Code and they need not be released to those requestors. The city must withhold the body worn camera recordings from the third requestor under section 552.101 of the Government Code in conjunction with section 1701.661(f) of the Occupations Code. The city must generally withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy and must generally withhold the motor vehicle record information we marked under section 552.130 of the Government Code; however, to the extent any of the information we marked relates to the first requestor, the city may not withhold that information from the first or the third requestor under section 552.101 of the Government Code in conjunction with common-law privacy or under section 552.130 of the Government Code. The city must release the remaining information.

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,

Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/be

Ref: ID# 925120

Enc. Submitted documents

c: 3 Requestors  
(w/o enclosures)