



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 1, 2017

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

OR2017-17221

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# 675512.

The City of Temple (the "city") received a request for information pertaining to a specified case. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, you state the submitted information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2017-07647 (2017). In that ruling, we determined (1) pursuant to section 1701.661 of the Occupations Code, our ruling does not reach the body worn camera recordings at issue, and they need not be released; (2) except for the information subject to section 773.091(g) of the Health and Safety Code, the city must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 773.091(b) of the Health and Safety Code; and (3) the city may withhold the remaining information under section 552.108(a)(1) of the Government Code. In the instant request, the requestor properly requests the body worn camera recordings. *See* Occ. Code § 1701.661(a). Therefore, the facts and circumstances have changed with respect to the body worn camera recordings. Accordingly, the city may not rely on Open Records Letter No. 2017-07647 with respect to 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. 2017-07647. Accordingly, for the remaining information previously requested and ruled upon by this office, we conclude the city must rely on Open Records Letter No. 2017-07647 as a previous determination and withhold or release the information previously at issue in accordance with that ruling.¹ However, we will address your arguments against disclosure of the submitted body worn camera recordings.

Section 552.108(a)(1) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the information at issue pertains to pending criminal matters. Based on your representation, we conclude the release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, section 552.108(a)(1) is applicable to the information at issue. Accordingly, the city may withhold the body worn camera recordings under section 552.108(a)(1) of the Government Code.

In summary, the city must rely on Open Records Letter No. 2017-07647 as a previous determination and, excluding the body worn camera recordings, withhold or release the information previously at issue in accordance with that ruling. The city may withhold the body worn camera recordings under section 552.108(a)(1) of the Government Code.

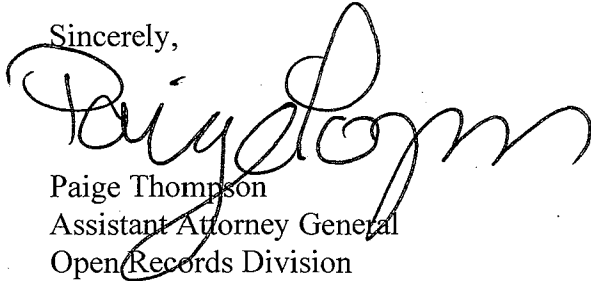
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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 <http://www.texasattorneygeneral.gov/open/>

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

[orl_ruling_info.shtml](#), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in cursive script, appearing to read "Paige Thompson". The signature is written in black ink and is positioned above the typed name and title.

Paige Thompson
Assistant Attorney General
Open Records Division

PT/eb

Ref: ID# 675512

Enc. Submitted documents

c: Requestor
(w/o enclosures)