



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 23, 2019

Ms. Linda Hight
Records Coordinator
City of Cleburne
P.O. Box 677
Cleburne, Texas 76033

OR2019-01979

Dear Ms. Hight:

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# 747269.

The City of Cleburne (the "city") received two requests from the different requestors for video recordings related to case number 18-01819. The second requestor additionally seeks information related to a specified incident involving a named individual. The city states it has released some of the requested information. The city claims the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions the city claims and reviewed the submitted information.

Initially, we note the submitted information includes police officers' body worn camera recordings. 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 provides, in relevant part, the following:

(a) 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 requestor does not provide the requisite information under section 1701.661(a) for any of the submitted body worn camera recordings. Further, the second requestor does not provide the requisite information for some of the recordings. With respect to the body worn camera recordings that were not properly requested pursuant to chapter 1701 of the Occupations Code, our ruling does not reach such information and the city need not release it. However, pursuant to section 1701.661(b), a “failure to provide all the information required by [s]ubsection (a) to be part of a request for recorded information does not preclude the requestor from making a future request for the same recorded information.” *Id.* § 1701.661(b). Upon review, we find the second requestor provided the information required by section 1701.661(a) with respect to one of the submitted body worn camera recordings. *Id.* Accordingly, we find the second requestor properly requested the body worn camera recording at issue and we will address the city’s arguments against its disclosure, as well as against disclosure of the remaining information, which does not consist of body worn camera recordings and is not subject to section 1701 of the Occupations Code.

Section 552.108(a)(2) of the Government Code exempts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. *See* Gov’t Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). The city states the submitted information relates to a closed criminal investigation that did not result in conviction or deferred adjudication. Based on this representation and our review, we agree the city may withhold the remaining information under section 552.108(a)(2) of the Government Code.¹

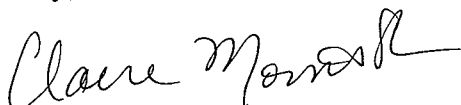
In summary, with respect to the body worn camera recordings that were not properly requested pursuant to chapter 1701 of the Occupations Code, our ruling does not reach such information and the city need not release it. The city may withhold the remaining information under section 552.108(a)(2) of the 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.

¹As our ruling is dispositive for this information, we need not address the remaining argument against its disclosure.

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/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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/eb

Ref: ID# 747269

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)