



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 5, 2019

Mr. David H. Guerra
Counsel for the City of Palmhurst
King, Guerra, Davis & Garcia, P.C.
301 East Tom Landry Street
Mission, Texas 78572

OR2019-24878

Dear Mr. Guerra:

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# 784280.

The City of Palmhurst (the "city"), which you represent, received several requests from five different requestors for information pertaining to a specified incident involving the arrest of a named individual. You claim some of the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note only the second, third, and fifth requestors seek the submitted video recordings. Accordingly, the submitted video recordings are not responsive to the remaining requests. The city need not release non-responsive information in response to the requests at issue.

Next, we note the requested information contains officers' body worn camera video 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(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 second and third requestors do not give the requisite information under section 1701.661(a) for the submitted body worn camera videos. Further, the fifth requestor does not give the requisite information under section 1701.661(a) for one of the submitted body worn camera videos. As these requestors did not properly request the body worn camera recordings at issue pursuant to chapter 1701, they need not be released in response to the requests at issue.¹ However, pursuant to section 1701.661(b), a “failure to provide all the information required by Subsection (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). Further, we note the fifth requestor provided the requisite information under section 1701.661(a) for the remaining body worn camera recordings. Accordingly, the fifth requestor properly requested a portion of the submitted body worn camera recordings, and we will consider the city’s argument against disclosure of this information.

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: (1) 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 information at issue 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, 710 (Tex. 1977). The city states the information it has marked and indicated relates to a pending criminal investigation and prosecution. Based on this 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, 186-87 (Tex. Civ. App.—Houston [14th Dist.] 1975) (delineating law enforcement interests present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Therefore, the city may withhold the information you marked and indicated under section 552.108(a)(1) of the Government Code.

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

In summary, as the second, third, and fifth requestors did not properly request the body worn camera recordings at issue pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information and it need not be released. The city may withhold the information you marked and indicated under section 552.108(a)(1) 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,



Britni Ramirez
Assistant Attorney General
Open Records Division

BR/gw

Ref: ID# 784280

Enc. Submitted documents

c: 5 Requestors
(w/o enclosures)