



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 11, 2020

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

OR2020-07746

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# 815971.

The City of Temple (the "city") received a request for recordings related to a specified incident. You claim some of the submitted information was not properly requested pursuant to section 1701.661 of the Occupations Code. You further claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered your arguments and reviewed the submitted information.

Initially, we note the requestor asks questions. The Act does not require a governmental body to answer factual questions, conduct legal research, or create new information in responding to a request. *See* Open Records Decision Nos. 563 at 8 (1990), 555 at 1-2 (1990). However, a governmental body must make a good faith effort to relate a request to any responsive information that is within its possession or control. Open Records Decision Nos. 561 at 8-9 (1990), 555 at 102. We assume you have made a good faith effort to do so.

Next, we note the requestor only seeks video recordings related to the specified incident. Accordingly, the remaining submitted information is not responsive to the present request because it does not consist of video recordings. This ruling does not address the public availability of any information that is not responsive to the request and the city is not required to release such information in response to this request.

Next, you state, and we agree, the responsive 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(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 requestor does not give the requisite information under section 1701.661(a). As the requestor did not properly request the body worn camera recordings pursuant to chapter 1701, our ruling does not reach this information and it need not be released.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). We note, the remaining responsive recordings do not consist of body worn camera recordings. Therefore, the remaining responsive recordings are not subject to section 1701.661 of the Occupations Code, and the city may not withhold any of the remaining responsive recordings on that basis.

Section 552.108(a)(2) of the Government Code exempts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the information at issue relates to a criminal investigation that has concluded in a final result other than conviction or deferred adjudication. *See id.* §§ 552.108(a)(2), .301(e)(1)(A). You state the remaining responsive information pertains to a criminal investigation that concluded in a result other than conviction or deferred adjudication. Therefore, we agree section 552.108(a)(2) is applicable to this information. Accordingly, the city may withhold the remaining responsive recordings under section 552.108(a)(2) of the Government Code.

In summary, as the requestor did not properly request the body worn camera recordings 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 remaining responsive recordings under section 552.108(a)(2) of the Government Code.

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

A handwritten signature in black ink, appearing to read 'Tim Neal', with a stylized flourish at the end.

Tim Neal
Assistant Attorney General
Open Records Division

TN/gw

Ref: ID# 815971

Enc. Submitted documents

c: Requestor
(w/o enclosures)