



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 15, 2020

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

OR2020-17619

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# 835759.

The City of Palmhurst and the Palmhurst Police Department (collectively, the "city") received two requests for (1) certain information pertaining to a specified incident involving the requestor's client, (2) specified policies and procedures of the city's police department, and (3) certain information pertaining to named individuals. You claim some of the submitted information was not properly requested pursuant to chapter 1701 of the Occupations Code. You also claim some of the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note the city has not submitted the requested information pertaining to the named individuals. To the extent any information responsive to this portion of the request existed on the date the city received the request, we assume the city has released it. If the city has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

Next, as you acknowledge, 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(a) provides:

A member of the public is required to provide the following information when submitted 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). We note the requestor provided the requisite information under section 1701.661(a) for some of the body worn camera recordings at issue. As these body worn camera recordings were properly requested pursuant to chapter 1701 of the Occupations Code, we will address your arguments against their disclosure. However, the requestor did not give the requisite information under section 1701.661(a) for the remaining body worn camera recording at issue. As the requestor did not properly request the remaining body worn camera recording, which we indicated, pursuant to chapter 1701, our ruling does not reach this information, and it need not be released to the requestor.<sup>1</sup> 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).

Section 552.108(a)(2) of the Government Code excepts 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). The city states the information it indicated pertains to an 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.

However, we note, and the city acknowledges, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, which must be released, the city may withhold the information it indicated under section 552.108(a)(2) of the Government Code.

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<sup>1</sup> As we are able to make this determination, we need not address the remaining arguments against disclosure of this information.

In summary, as the requestor did not properly request the body worn camera recording we indicated pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information and it need not be released. With the exception of basic information, which must be released, the city may withhold the information it indicated under section 552.108(a)(2) 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,

Kimbell Kesling  
Assistant Attorney General  
Open Records Division

KK/mo

Ref: ID# 835759

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

REF: ID # 835759

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