



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 24, 2020

Ms. Alma Lazdowski
PIA Clerk Records Division
Pflugerville Police Department
P.O. Box 679
Pflugerville, Texas 78691

OR2020-29470

Dear Ms. Lazdowski:

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# 855353 (Ref. No. W010538).

The Pflugerville Police Department (the "department") received a request for information pertaining to a specified accident, excluding certain dates of birth and motor vehicle record information.¹ You state the department has released some information. You claim some of the remaining information is excepted from disclosure under section 552.1085 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the requestor has specifically excluded certain dates of birth and motor vehicle record information from his request and such information is not responsive to the instant request for information. This ruling does not address the public availability of any information that is not responsive to the request and the department is not required to release such information in response to this request.

As you acknowledge, the submitted information includes police officers' body worn camera recordings. Body worn cameras are subject to chapter 1701 of the Occupations

¹ The department states it sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

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.² 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 552.1085 of the Government Code provides, in relevant part, the following:

(c) A sensitive crime scene image in the custody of a governmental body is confidential and excepted from the requirements of Section 552.021 and a governmental body may not permit a person to view or copy the image except as provided by this section. This section applies to any sensitive crime scene image regardless of the date that the image was taken or recorded.

Gov’t Code § 552.1085(c). For purposes of section 552.1085, “sensitive crime scene image” means “a photograph or video recording taken at a crime scene, contained in or part of a closed criminal case, that depicts a deceased person in a state of dismemberment, decapitation, or similar mutilation or that depicts the deceased person’s genitalia.” *See id.* § 552.1085(a)(6). You assert some of the submitted photographs consist of sensitive crime scene images that were taken at a crime scene as part of a criminal case we understand is now closed. Further, none of the exceptions in section 552.1085 apply in this instance. Based on your representations and our review, we agree the photographs we indicated consist of sensitive crime scene images for the purposes of section 552.1085. Therefore, the department must withhold the photographs we indicated under section 552.1085(c) of the Government Code. However, the remaining photographs do not consist of sensitive crime scene images for the purposes of section 552.1085, and the department may not withhold the remaining photographs under section 552.1085(c) of the Government Code.

² As we are able to make this determination, we need not address your argument against disclosure of this information.

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 department must withhold the photographs we indicated under section 552.1085(c) of the Government Code. The remaining responsive information at issue must be released.

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,

Michelle Garza
Assistant Attorney General
Open Records Division

MRG/rm

Ref: ID# 855353

Enc. Submitted documents

c: Requestor
(w/o enclosures)