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ATTORNEY GENERAL OF TEXAS

December 17, 2020

Ms. Susan Camp-Lee
Counsel for City of Elgin
Sheets & Crossfield, P.L.L.C.
309 East Main Street
Round Rock, Texas 78664-5246

OR2020-31700

Dear Ms. Camp-Lee:

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# 858928.

The City of Elgin (the "city"), which you represent, received two requests for information pertaining to a specified individual. You state you have released some information. You claim 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.

The city argues the first requestor did not make a proper written request for information pursuant to section 552.234 of the Government Code. Section 552.234 provides a person may make a written request for public information by delivering the request to the applicable officer for public information or a person designated by that officer via electronic mail. *See* Gov't Code § 552.234(a)(2). Pursuant to section 552.234(c), a governmental body may designate one mailing address and one electronic mail address for receiving written requests for public information. *See id.* § 552.234(c). You state, and provide documentation showing, the city has designated one mailing address and one electronic mail address to receive public information requests. You explain the first requestor e-mailed his requests for information to the city. However, the first requestor did not send his requests for information to the e-mail address designated to receive requests for public information. Pursuant to section 552.234(d), the city is not required to respond to written requests for information that are not received at the designated e-mail address. *See id.* § 552.234(d). Accordingly, the city is not required to respond to the first requestor's requests for information.

Next, we note some of the submitted information consists of information recorded by a body camera. 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 requestor does not provide the requisite information under section 1701.661(a) for the information recorded from a body worn camera. As the information at issue was not properly requested pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information and it need not be released. 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).

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 . . . 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 reasonably explain how and why the release of the requested information 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 (Tex. 1977). We note the submitted information concerns an internal administrative investigation performed by the city’s police department. Section 552.108 is generally not applicable to records that are purely administrative in nature and do not involve the investigation or prosecution of crime. *See City of Fort Worth v. Cornyn*, 86 S.W.3d 320 (Tex. App.—Austin 2002, no pet.); *Morales v. Ellen*, 840 S.W.2d 519 (Tex. App.—El Paso 1992, writ denied) (statutory predecessor to section 552.108 not applicable to internal investigation that did not result in criminal investigation or prosecution); *see also Open Records Decision No. 350* at 3-4 (1982). However, you assert the remaining information relates to an ongoing criminal investigation into the actions of current and former employees. 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 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref’d n.r.e. per curiam*, 536

S.W.2d 559 (Tex. 1976). Accordingly, the city may withhold the remaining information in its entirety under section 552.108(a)(1) of the Government Code.¹

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,

Joseph Hoggatt
Attorney
Open Records Division

JWH/be

Ref: ID# 858928

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)

¹ Although the requestor is a representative of the Division of Workers' Compensation of the Texas Department of Insurance, she does not indicate she has a specific right of access to the information at issue under state or federal law. See Open Records Decision Nos. 598 (1991), 583 (1990), 451 (1986).