



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 18, 2022

Mr. Mehran Jadidi
Assistant City Attorney
City of Galveston
P.O. Box 779
Galveston, Texas 77553-0779

OR2022-05143

Dear Mr. Jadidi:

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# 928970 (Ref. No. W009579-102921).

The City of Galveston (the "city") received a request for video footage from a specified location during a specified period of time and a log of employees who have viewed the video. You claim the submitted information is not subject to disclosure. We have considered your argument and reviewed the submitted information.

Initially, we note the city has not submitted the requested employee log. 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).

Section 552.228 provides as follows:

- (a) It shall be a policy of a governmental body to provide a suitable copy of public information within a reasonable time after the date on which the copy is requested.
- (b) If public information exists in an electronic or magnetic medium, the requestor may request a copy in an electronic medium, such as on diskette or on magnetic tape. A governmental body shall provide a copy in the requested medium if:

(1) the governmental body has the technological ability to produce a copy of the requested information in the requested medium;

(2) the governmental body is not required to purchase any software or hardware to accommodate the request; and

(3) provision of a copy of the information in the requested medium will not violate the terms of any copyright agreement between the governmental body and a third party.

(c) If a governmental body is unable to comply with a request to produce a copy of information in a requested medium for any of the reasons described by this section, the governmental body shall provide a copy in another medium that is acceptable to the requestor. A governmental body is not required to copy information onto a diskette or other material provided by the requestor but may use its own supplies.

Gov't Code § 552.228. Thus, section 552.228 permits the requestor to seek access to and obtain information in an electronic medium, provided the information exists in that medium and provided the three conditions specified by subsection 552.228(b) are met. If the three conditions are not met, then the governmental body must provide a copy of the information on paper or in another medium that is acceptable to the requestor. *See id.* § 552.228(c).

You state the city is unable to place the requested information on any transferable media to allow the requestor to view it. You explain the software to view the information is proprietary and the city does not have the technological ability to produce a copy of the requested information. However, we note the city does have the technological ability to produce a copy of the requested information as it has produced a copy for our office. Similarly, we note our office was able to view the information in the medium provided. Further, you have not demonstrated that the information in the requested medium will violate the terms of any copyright agreement between the governmental body and a third party. Accordingly, we find that the conditions in subsections (b)(1) through (b)(3) are satisfied. Therefore, we conclude that the Act must govern the release of the requested electronic records. The city must release the requested information in the electronic medium to the requestor.

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/ba

Ref: ID# 928970

c: Requestor