



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 2, 2016

Ms. Stephanie Berry
Assistant City Attorney
City of Denton
215 East McKinney
Denton, Texas 76201

OR2016-17281

Dear Ms. Berry:

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# 621034.

The City of Denton (the "city") received a request for information related to a specified incident involving a named individual, including (1) all video recordings, (2) all audio recordings, (3) all photographs, and (4) all written documents. You state you have released some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101, 552.103, and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information, a portion of which consists of a representative sample.¹

Initially, you state some of the responsive information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2016-10321 (2016). In that ruling, we determined: (1) pursuant to section 1701.661 of the Occupations Code, our ruling does not reach the body worn camera recordings at issue, and they need not be released and (2) with the exception of the basic information, the city may withhold the

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

remaining information at issue under section 552.108(a)(1) of the Government Code. We note the present requestor properly requests the body worn camera recordings. Therefore, the facts and circumstances have changed with respect to the body worn camera recordings. Accordingly, the city may not rely on Open Records Letter No. 2016-10321 with respect to this information. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). However, we have no indication the law, facts, or circumstances on which the previous ruling was based have changed with respect to the remaining information at issue in Open Records Letter No. 2016-10321. Accordingly, for the remaining information previously requested and ruled upon by this office, we conclude the city may rely on Open Records Letter No. 2016-10321 as a previous determination and withhold or release the information previously at issue in accordance with that ruling. However, we will address your arguments against disclosure of the submitted body worn camera recordings and the submitted information not previously ruled upon by this office.

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 government body claiming section 552.108(a)(1) must explain how and why the release of the requested information would interfere with law enforcement. *See* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the information at issue relates to a pending criminal prosecution. Based on your representation and our review, we conclude the release of the submitted information 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, we find the city may withhold the submitted information under section 552.108(a)(1) of the Government Code.²

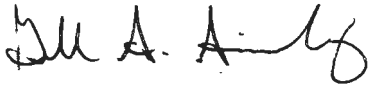
In summary, the city may rely on Open Records Letter No. 2016-10321 as a previous determination and, excluding the body worn camera recordings, withhold or release the information previously at issue in accordance with that ruling. Additionally, the city may withhold the submitted information under section 552.108(a)(1) of the Government Code.

²We note, although section 552.108 of the Government Code does not except from disclosure basic information about an arrested person, an arrest, or a crime, *see* Gov’t Code § 552.108(c), the city states it has previously released basic information from this file to the requestor. Additionally, as our ruling is dispositive, we need not address your remaining argument against disclosure of the submitted 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 http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Gerald A. Arismendez". The signature is written in a cursive style with a large, stylized initial "G".

Gerald A. Arismendez
Assistant Attorney General
Open Records Division

GAA/dm

Ref: ID# 621034

Enc. Submitted documents

c: Requestor
(w/o enclosures)