



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 29, 2017

Mr. Christopher K. Austria  
Assistant City Attorney  
City of Fort Worth  
200 Texas Street, 3rd Floor  
Fort Worth, Texas 76102-6311

OR2017-29290

Dear Mr. Austria:

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# 696451 (W067216).

The City of Fort Worth (the "city") received a request for information pertaining to a specified arrest of the requestor's client. 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.

Initially, we note some of the submitted information consists of 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 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 at issue pursuant to chapter 1701, our ruling does not reach this information and it need not be released.<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).

Next, we note some of the remaining information is subject to article 2.1396 of the Code of Criminal Procedure, which provides,

A person stopped or arrested on suspicion of an offense under Section 49.04, 49.045, 49.07, or 49.08, Penal Code, is entitled to receive from a law enforcement agency employing the peace officer who made the stop or arrest a copy of any video made by or at the direction of the officer that contains footage of:

- (1) the stop;
- (2) the arrest;
- (3) the conduct of the person stopped during any interaction with the officer, including during the administration of a field sobriety test; or
- (4) a procedure in which a specimen of the person’s breath or blood is taken.

Crim Proc. Code art 2.1396. The remaining information includes video recordings made by or at the direction of officers employed by the city’s police department and contain footage of the requestor’s client being stopped or arrested on suspicion of an offense under section 49.04 of the Penal Code. *See* Penal Code § 49.04 (person commits offense if person is intoxicated while operating motor vehicle in public place). Thus, the requestor is entitled to receive a copy of the video recordings at issue pursuant to article 2.1396 of the Code of Criminal Procedure. Although you seek to withhold the recordings under section 552.108 of the Government Code, a statutory right of access prevails over the Act’s general exceptions to public disclosure. *See* Open Records Decision Nos. 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information), 451 (1986) (specific statutory right of access provisions overcome general exception to disclosure under the Act). Because section 552.108 is a general exception under the Act, the requestor’s statutory right of access under article 2.1396 prevails. Therefore, the city may not withhold any portion of the remaining video recordings that depicts the stop, the arrest, the conduct of the requestor’s client, or a procedure in which a specimen of the requestor’s client’s blood or breath is taken under section 552.108 of the Government Code. As you raise no further

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

exceptions against disclosure of the video recordings at issue, the city must release a copy of any portion of the remaining video recordings that depicts the stop, the arrest, the conduct of the requestor's client, or a procedure in which a specimen of the requestor's client's blood or breath is taken pursuant to article 2.1396 of the Code of Criminal Procedure.

We note the remaining information includes the results of an analysis of a blood specimen. Section 724.018 of the Transportation Code provides that “[o]n request of the person who has given a specimen at the request of a peace officer, full information concerning the analysis of the specimen shall be made available to the person or the person’s attorney.” Transp. Code § 724.018. Although you seek to withhold this information under section 552.108 of the Government Code, the general exceptions to disclosure found in the Act do not apply to information that other statutes make public. *See* Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989). In this instance, the requestor’s client is the person who provided the blood specimen at the request of a peace officer. Therefore, the blood specimen examination results, which we have marked, must be released to the requestor pursuant to section 724.018 of the Transportation Code.

Next, we note the remaining information includes a court-filed document. Section 552.022(a)(17) of the Government Code provides for required public disclosure of “information that is also contained in a public court record” unless the information is expressly made confidential under the Act or other law. Gov’t Code § 552.022(a)(17). You seek to withhold the information at issue under section 552.108 of the Government Code. However, this section is a discretionary exception to disclosure that protects a governmental body’s interests and does not make information confidential under the Act. *See id.* § 552.007; Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary-exceptions generally). 177 at 3 (1977) (statutory predecessor to section 552.108 subject to waiver). Therefore, you may not withhold the court-filed document, which we have marked, under section 552.108. As you raise no other exceptions to disclosure of the marked court-filed document, it must be released.

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 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). You state the remaining information pertains to a pending criminal investigation and prosecution. Based on this representation, we conclude section 552.108(a)(1) is generally applicable to the information at issue. *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). We note, however, the information at issue includes a DIC-24 statutory warning and a DIC-25 notice of suspension. The city provided copies of these forms to the arrestee. You have not explained how releasing this information, which has already been seen by the arrestee, would

interfere with the detection, investigation, or prosecution of crime. See Gov't Code § 552.108(a)(1). Accordingly, the DIC-24 and DIC-25 forms may not be withheld under section 552.108.

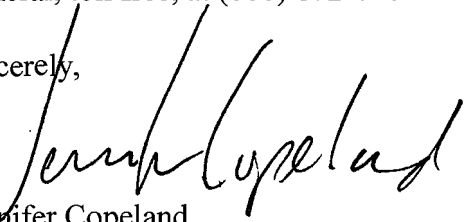
Additionally, section 552.108 does not except from disclosure "basic information about an arrested person, an arrest, or a crime." *Id.* § 552.108(c). Section 552.108(c) refers to the basic "front-page" information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-187; see also Open Records Decision No. 127 (1976) (summarizing types of information considered basic information). Accordingly, with the exception of the DIC-24 and DIC-25 forms and basic information, the city may withhold the remaining information under section 552.108(a)(1) of the Government Code.

In summary, as the requestor did not properly request the body worn camera recordings at issue pursuant to chapter 1701, our ruling does not reach this information and it need not be released. The city must release a copy of any portion of the remaining video recordings that depicts the stop, the arrest, the conduct of the requestor's client, or a procedure in which a specimen of the requestor's client's blood or breath is taken pursuant to article 2.1396 of the Code of Criminal Procedure. The blood specimen examination results, which we have marked, must be released to the requestor pursuant to section 724.018 of the Transportation Code. The court-filed document we have marked is subject to section 552.022(a)(17) and must be released. With the exception of the DIC-24 and DIC-25 forms and basic information, which must be released, the city may withhold the remaining information under section 552.108(a)(1) of the Government Code.

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](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,



Jennifer Copeland  
Assistant Attorney General  
Open Records Division

JC/gw

Ref: ID# 696451

Enc. Submitted documents

c: Requestor  
(w/o enclosures)