



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 11, 2019

Ms. Nicole Dempsey  
Assistant County & District Attorney  
Ellis County  
109 South Jackson Street  
Waxahachie, Texas 75165

OR2019-00862

Dear Ms. Dempsey:

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# 745774.

The Ellis County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a specified type of call for service made by a named individual during a specified time period. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the submitted information includes 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, you state the requested information was the subject of a previous request for a ruling, as a result of which this office issued Open Records Letter No. 2018-15781 (2018). In that ruling, we determined 1) with the exception of the information that must be released to this requestor pursuant to section 552.023 of the Government Code, the sheriff’s office may continue to rely on Open Records Letter No. 2018-11543 (2018) as a previous determination and withhold or release the information at issue in accordance with that ruling; 2) as the body worn camera recordings at issue were not properly requested pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information and it need not be released; 3) the sheriff’s office may withhold the marked information under section 552.108(a)(2) of the Government Code; 4) the sheriff’s office must withhold the marked information under section 552.101 of the Government Code in conjunction with the MPA; 5) the sheriff’s office must withhold the marked information under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code and federal law; 6) except for the date of birth belonging to the requestor’s client, the sheriff’s office must withhold all public citizens’ dates of birth under section 552.101 of the Government Code on the basis of common-law privacy; and 7) the sheriff’s office must release the remaining information. We have no indication the law, facts, or circumstances on which the prior ruling was based have changed. Thus, the sheriff’s office must continue to rely on Open Records Letter No. 2018-15781 as a previous determination and withhold or release the information at issue in accordance with that ruling.<sup>2</sup> *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 a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.


<sup>2</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

In summary, as the requestor did not properly request the body worn camera recordings at issue pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information and it need not be released. The sheriff's office must continue to rely on Open Records Letter No. 2018-15781 as a previous determination and withhold or release the remaining information at issue in accordance with that ruling.

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,



Meredith L. Coffman  
Assistant Attorney General  
Open Records Division

MLC/mo

Ref: ID# 745774

Enc. Submitted documents

c: Requestor  
(w/o enclosures)