



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 31, 2019

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

OR2019-02936

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# 755377.

The Ellis County & District Attorney's Office (the "district attorney's office") received a request for all information related to the requestor and a specified cause number. You claim some of the submitted information was not properly requested pursuant to section 1701.661 of the Occupations Code. You further claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered your arguments and reviewed the submitted information.

Initially, we note the submitted information includes a peace officer's body worn camera recording. 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). As the body worn camera recording at issue was not properly requested pursuant to chapter 1701, our ruling does not reach this information and it need not be released.¹ 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). We note the remaining video recordings consist of dashboard and in-car camera video recordings from a peace officer’s vehicle. This information does not consist of body worn camera recordings. Therefore, the remaining video recordings are not subject to section 1701.661 of the Occupations Code. Accordingly, we will address your remaining arguments against disclosure of this information.

Section 552.108(a)(1) of the Government Code exempts 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 you have marked relates to a pending criminal investigation or prosecution. Upon review, we find the you have demonstrated release of the remaining 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). Thus, section 552.108(a)(1) is applicable to the remaining information you have marked.

However, section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). Section 552.108(c) refers to the basic 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 to be basic information). Accordingly, with the exception of basic information, the district attorney’s office may withhold the remaining information you have marked under section 552.108(a)(1) of the Government Code.²

In summary, the submitted body worn camera recording was not properly requested pursuant to chapter 1701 of the Occupations Code and it need not be released. With the exception of basic information, which must be released, the district attorney’s office may withhold the

¹As we are able to make this determination, we need not address your remaining arguments against disclosure of this information.

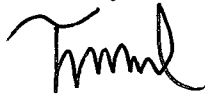
²As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

remaining information you have marked under section 552.108(a)(1) of the Government Code. The district attorney's office must release the remaining information to this requestor.³

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,



Tim Neal
Assistant Attorney General
Open Records Division

TN/gw

Ref: ID# 755377

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³We note the requestor has a right of access to some of the information being released in this instance. See Gov't Code § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Thus, if the district attorney's receives another request for the same information from a different requestor, the district attorney's office must again seek a decision from this office.