



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 25, 2019

Ms. Kristie L. Lewis  
Staff Attorney  
Houston Police Department  
1200 Travis, 21<sup>st</sup> Floor  
Houston, Texas 77002-6000

OR2019-05233

Dear Mr. Zapata:

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# 753976 (ORR# 18-12379, 18-12385, and 19-00706).

The Houston Police Department (the "department") received one request for information (the "second request") pertaining to a specified accident, including any recordings, and two other requests for the recordings at issue. The department claims the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

Initially, we note the department submitted a representative sample of recordings pertaining to the accident at issue, which is responsive to all three requests, but no other information responsive to the second request. Thus, we find the submitted information is not representative of the other types of information to which the second requestor seeks access. Please be advised, this open records letter ruling applies only to the type of information the department has submitted for our review. This ruling does not authorize the department to withhold any information that is substantially different from the type of information the department submitted to this office. *See* Gov't Code § 552.302. Accordingly, to the extent any information responsive to the remainder of the second request for information existed in the possession of the department when it received the request, we assume the department has released that information to that requestor. *See* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must

release information as soon as possible). If the department has not released any such information to the second requestor, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302.

The submitted information includes a body worn camera recording of a police officer. 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 the following:

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). The third requestor does not give the requisite information under section 1701.661(a). As this requestor did not properly request the body worn camera recording at issue pursuant to chapter 1701, the department is not required to release it to that requestor. 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). Nevertheless, the remaining requestors properly requested the body worn camera recording pursuant to chapter 1701 of the Occupations Code. Therefore, we will address the department’s argument against its disclosure with respect to the remaining requests.

Section 552.108(a) 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: (1) 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 information at issue 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, 710 (Tex. 1977). The department states the information at issue relates to a pending criminal investigation or prosecution. Based on this representation, we conclude the release of this 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, 186-87 (Tex. Civ. App.—Houston [14th Dist.] 1975) (delineating law enforcement interests present in active cases), *writ ref’d n.r.e. per curiam*,

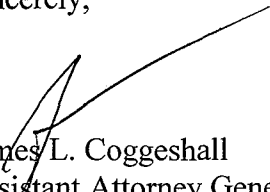
536 S.W.2d 559 (Tex. 1976). Thus, the department may withhold the information at issue under section 552.108(a)(1) of the Government Code.

In summary, because the third requestor did not properly request the submitted body worn camera recording pursuant to chapter 1701 of the Occupations Code, our ruling does not reach the body worn camera recording at issue and the department is not required to release it to that requestor. The department may withhold the information at issue 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,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/som

Ref: ID# 753976

Enc. Submitted documents

c: 3 Requestors  
(w/o enclosures)