



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 8, 2019

Ms. Linda Pemberton  
Paralegal  
City of Killeen  
P.O. Box 1329  
Killeen, Texas 76540

OR2019-06565

Dear Ms. Pemberton:

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# 758285 (City ID Nos. W027722 and W027881).

The Killeen Police Department (the "department") received two requests from different requestors for information related to a specified incident. You state you have released some information to the requestors. You claim some of the submitted information was not properly requested pursuant to section 1701.661 of the Occupations Code. You further claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered your arguments and reviewed the submitted information.

Initially, we note the second requestor only seeks body worn camera recordings related to the specified incident. Accordingly, the remaining submitted information is not responsive to the second request. The department need not release non-responsive information in response to the second request and our ruling does not address this information with respect to the second request.

Next, we note the submitted information includes a police officer's 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 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 second requestor does not provide the requisite information under section 1701.661(a). As the body worn camera recording at issue was not properly requested by the second requestor pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information and it need not be released to the second requestor.<sup>1</sup> 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). As the first requestor did provide the requisite information under section 1701.661(a), we will address your arguments against disclosure of the body worn camera recording as to the first requestor.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. Gov’t Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A); Open Records Decision No. 434 (1986). You state the submitted information pertains to a concluded criminal investigation that did not result in conviction or deferred adjudication. Based on this representation, we agree section 552.108(a)(2) is applicable to the information at issue.

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 department may withhold the submitted information under section 552.108(a)(2) of the Government Code.

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

In summary, as the body worn camera recordings at issue were not properly requested by the second requestor pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information and it need not be released to the second requestor. With the exception of basic information, which must be released to the first requestor, the department may withhold the submitted information under section 552.108(a)(2) 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,



Tim Neal  
Assistant Attorney General  
Open Records Division

TN/eb

Ref: ID# 758285

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)