



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 27, 2019

Ms. Danie Huffman  
Public Information Officer  
Parker County Sheriff's Office  
129 Hogle Street  
Weatherford Texas 76086

OR2019-08387

Dear Ms. Huffman:

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# 756937 (Reference No. OR19-30)

The Parker County Sheriff's Office (the "sheriff's office") received a request for video recordings of a specified incident. You state you do not have information responsive to part of the request.<sup>1</sup> You claim the submitted information was not properly requested pursuant to section 1701.661(a) of the Occupations Code. You also 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, and you acknowledge, 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:

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<sup>1</sup>The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

- (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, which we indicated, was not properly requested pursuant to chapter 1701, our ruling does not reach this information and the sheriff's office need not release it.<sup>2</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). We note the remaining video recordings consist of dashboard camera video recordings from a sheriff's office vehicle. We find this information does not consist of a body worn camera recording. Therefore, the remaining video recordings are not subject to section 1701.661 of the Occupations Code. Accordingly, we will consider whether this information is otherwise excepted from disclosure under the Act.

Next, we note the remaining information is subject to article 2.1396 of the Code of Criminal Procedure. Article 2.1396 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 consists of video recordings made by or at the direction of an officer employed by the sheriff's office that contain footage of the

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<sup>2</sup>As we are able to make this determination, we need not address the city's remaining argument against disclosure of this information.

requestor being stopped or arrested on suspicion of an offense under section 49.04 of the Penal Code. *See* Penal Code § 49.04 (“A person commits an offense if the person is intoxicated while operating a motor vehicle in a public place.”). Therefore, the requestor is entitled to receive a copy of these video recordings pursuant to article 2.1396 of the Code of Criminal Procedure. Although you assert section 552.108 of the Government Code to withhold this information, a statutory right of access prevails over the Act’s general exceptions to public disclosure. *See, e.g.*, 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 access under article 2.1396 prevails and the sheriff’s office may not withhold the remaining video recordings under section 552.108. As you raise no further exceptions against disclosure of the remaining information, the sheriff’s office must release the remaining video recordings pursuant to article 2.1396 of the Code of Criminal Procedure.

In summary, as the requestor did not properly request the body worn camera recording we indicated pursuant to chapter 1701, our ruling does not reach this information and the sheriff’s office need not release it. The sheriff’s office must release the remaining recordings to this requestor pursuant to article 2.1396 of the code of Criminal Procedure.<sup>3</sup>

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,



Patrick P. Mehaffy  
Assistant Attorney General  
Open Records Division

PPM/jxd

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<sup>3</sup>We note the requestor has a right of access to the information being released. Thus, the sheriff’s office must again seek a decision from this office if it receives another request for the same information from another requestor.

Ref: ID# 756937

Enc. Submitted documents

c: Requestor  
(w/o enclosures)