



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 11, 2019

Mr. James Kopp
Assistant City Attorney
City of San Antonio
315 South Santa Rosa, 6th Floor
San Antonio, Texas 78207

OR2019-09808

Dear Mr. Kopp:

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# 767306 (COSA File No. W255092).

The City of San Antonio (the "city") received a request for information related to a specified case number. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim 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(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 provide the requisite information under section 1701.661(a) for the submitted body worn camera recording. As this body worn camera recording was not properly requested pursuant to chapter 1701 of the

Occupations Code, our ruling does not reach this information and it need not be released.¹ We note, 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).

Next, we note some of the submitted information is subject to section 552.022 of the Government Code. Section 552.022(a) provides, in relevant part, the following:

(a) [T]he following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

...

(17) information that is also contained in a public court record[.]

Gov’t Code § 552.022(a)(17). The submitted information includes court-filed documents subject to section 552.022(a)(17). The city must release the information subject to section 552.022(a)(17) unless the information is made confidential under the Act or other law. *See id.* Although you raise section 552.108 of the Government Code for the information subject to section 552.022(a)(17), this exception is discretionary in nature and does not make information confidential under the Act. *See Open Records Decision No. 177 at 3 (1977)* (governmental body may waive statutory predecessor to section 552.108); *see also Open Records Decision No. 665 at 2 n.5 (2000)* (discretionary exceptions generally). Therefore, the city may not withhold the information subject to section 552.022(a)(17), which we have marked, under section 552.108 of the Government Code. As you raise no further exceptions to disclosure, the city must release the information we have marked pursuant to section 552.022(a)(17) of the Government Code.

Section 552.108(a)(1) 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. . . 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 pertains to a pending criminal prosecution. Accordingly, based on the your representation and our review, we conclude the release of the remaining 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 77 (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*

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

curiam, 536 S.W.2d 559 (Tex. 976). Thus, section 552.108(a)(1) is applicable to the remaining information.

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). Basic information refers to the information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of basic information, the city may withhold the remaining information under section 552.108(a)(1) of the Government Code.

In summary, as the requestor did not properly request the submitted body worn camera recording pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information, and the city need not release it to the requestor. With the exception of basic information and the information subject to section 552.022(a)(17) of the Government Code, the city may withhold the remaining information 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, 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,



Jesse Harvey
Assistant Attorney General
Open Records Division

JH/jxd

Ref: ID# 767306

Enc. Submitted documents

c: Requestor
(w/o enclosures)