



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 16, 2019

Mr. Lance Kennedy
Counsel for the City of Denison
Messer, Rockefeller & Fort, PLLC
6371 Preston Road, Suite 200
Frisco, Texas 75034

OR2019-13104

Dear Mr. Kennedy:

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# 772969 (Ref. No. D040919JC).

The City of Denison (the "city"), which you represent, received a request for audio and video recordings pertaining to a specified incident. 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 requestor seeks only audio and video recordings pertaining to the specified incident. Thus, the portions of the submitted documents that do not consist of audio and video recordings are not responsive to the present request. This ruling does not address the public availability of any information that is not responsive to the request, and the city is not required to release that information in response to the request.¹

Initially, we note the submitted information includes police officers' 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(a) provides:

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

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 give the requisite information under section 1701.661(a) for some of the submitted body worn camera videos. As the requestor did not properly request the body worn camera recordings at issue pursuant to chapter 1701, our ruling does not reach this information and it need not be released.² 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). Further, we note the requestor provided the requisite information under section 1701.661(a) for the remaining body worn camera recordings. Accordingly, the requestor properly requested the body worn camera recordings at issue, and we will consider the city’s argument against disclosure of this information.

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). Generally, 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 responsive information relates to an ongoing investigation, and release of that information would interfere with the investigation and prosecution of the case. Based upon this representation, 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 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 responsive information. Accordingly, the city may withhold the remaining responsive information under section 552.108(a)(1) of the Government Code.


²As we are able to make this determination, we need not address your arguments against disclosure of this information.

In summary, as the requestor did not properly request some of the body worn camera recordings at issue pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information and it need not be released. 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,


Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/be

Ref: ID# 772969

Enc. Submitted documents

c: Requestor
(w/o enclosures)