



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 5, 2019

Ms. Rebecca S. Hayward  
Counsel for the City of San Benito  
Denton, Navarro, Rocha, Bernal & Zech, P.C.  
701 East Harrison, Suite 100  
Harlingen, Texas 78550-9165

OR2019-14880

Dear Ms. Hayward:

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# 776654.

The City of San Benito (the "city") received a request for information pertaining to the death of a named individual. You state the city has released some information. You claim the submitted information is excepted from disclosure under sections 552.101, 552.103, and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the requested information includes law enforcement body worn camera video. 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 give the requisite information under section 1701.661(a). As the requestor did not properly request the body worn camera video at issue pursuant to chapter 1701, our ruling does not reach this information and it need not be released.<sup>1</sup> 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).

Section 552.108(a)(1) of the Government Code excepts from disclosure “[information 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). Section 552.108 may be invoked by the proper custodian of information relating to a pending investigation or prosecution of criminal conduct. *See Open Records Decision No. 474 at 4-5 (1987)*. Where a non-law enforcement agency has custody of information that would otherwise qualify for exception under section 552.108 as information relating to the pending case of a law enforcement agency, the custodian of the records may withhold the information if it provides this office with a demonstration the information relates to the pending case and a representation from the law enforcement agency that it wishes to have the information withheld. The city states the Texas Rangers (the “Rangers”) have advised the remaining information is related to an active criminal investigation. The city informs us the Rangers object to disclosure of the information at issue because its release would interfere with the investigation. Based on these representations, we conclude the city may withhold the remaining information under section 552.108(a)(1) of the Government Code on behalf of the Rangers. *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).

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). Thus, with the exception of the basic information, the

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

city may withhold the remaining information under section 552.108(a)(1) of the Government Code on behalf of the Rangers.

In summary, as the requestor did not properly request the body worn camera video at issue pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information, and the city need not release it in response to this request for information. With the exception of the basic information, which must be released, the city may withhold the remaining information under section 552.108(a)(1) of the Government Code on behalf of the Rangers.

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,



Britni Ramirez  
Assistant Attorney General  
Open Records Division

BR/sb

Ref: ID# 776654

Enc. Submitted documents

c: Requestor  
(w/o enclosures)