



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 12, 2019

Mr. Les Moore
Police Legal Adviser
Irving Police Department
P.O. Box 152288
Irving, Texas 75015

OR2019-15704

Dear Mr. Moore:

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# 770109.

The Irving Police Department (the "department") received five requests for information pertaining to a specified incident. You state the department has released some information. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note a portion of the submitted information consists of an 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, only the first requestor gives the requisite information under section 1701.661(a). As the remaining requestors did not properly request the body worn camera recording at issue pursuant to chapter 1701, our ruling does not reach this information and it need not be released.¹ 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). As the first requestor properly requested the information at issue, we will consider the department’s arguments against disclosure of this information.

Section 552.108(b)(2) of the Government Code excepts from disclosure an internal record or notation of a law enforcement agency or prosecutor if “the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication[.]” Gov’t Code § 552.108(b)(2). A governmental body claiming section 552.108(b)(2) must demonstrate the information at issue relates to a criminal investigation that concluded in a final result other than conviction or deferred adjudication. *See id.* §§ 552.108(b)(2), .301(e)(1)(A). You state the submitted information pertains to a criminal investigation that concluded in a final result other than conviction or deferred adjudication. Based on this representation, we conclude section 552.108(b)(2) of the Government Code is applicable to the information at issue. Thus, the department may withhold the submitted information under section 552.108(b)(2) of the Government Code.

In summary, as the remaining requestors did not properly request the body worn camera recording at issue pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information and it need not be released. The department may withhold the submitted information under section 552.108(b)(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/>

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

[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,



Kelly McWethy
Assistant Attorney General
Open Records Division

KSM/be

Ref: ID# 770109

Enc. Submitted documents

c: 5 Requesters
(w/o enclosures)