



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 21, 2019

Ms. Myrna S. Reingold
Legal Department
County of Galveston
722 Moody Avenue, Fifth Floor
Galveston, Texas 77550

OR2019-17058

Dear Ms. Reingold:

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# 771593.

The Galveston County Sheriff's Office (the "sheriff's office ") received a request for all audio or video recordings created during a specified time at a specified location; specified security procedures; and all information pertaining to the requestor during a specified time, including information pertaining to a specified incident. You state you released some information. You claim some of the submitted information was not properly requested pursuant to section 1701.661 of the Occupations Code. You further claim some of the submitted information is not responsive to the present request. You also claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the submitted arguments and reviewed the submitted information.

Initially, you argue some of the submitted information is not responsive to the request for information. Upon review, we note the Act requires a governmental body to make a good-faith effort to relate a request to information the governmental body holds or to which it has access. *See* Open Records Decision Nos. 563 at 8 (1990), 561 at 8-9 (1990), 555 at 1-2 (1990), 534 at 2-3 (1989). We note the sheriff's office submitted information as potentially responsive. Because the sheriff's office has submitted the information at issue for our review and submitted arguments against disclosure of the information, we find the sheriff's office has made a good-faith effort to submit information that is responsive to the request. Accordingly, we will address the arguments against disclosure of the information at issue.

Next, 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 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:

- (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 recordings at issue were not properly requested 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 [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).

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. *See* Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the information you marked relates to a closed case that did not result in conviction or deferred adjudication. Based on your representation and our review, we agree section 552.108(a)(2) is applicable to the information you marked. Thus, the sheriff's office may withhold the information you marked under section 552.108(a)(2) of the Government Code.²

In summary, as the body worn camera recordings at issue were not properly requested pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information

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

²As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

and it need not be released. The sheriff's office may withhold the information you marked under section 552.108(a)(2) of the Government Code. The sheriff's office must release the remaining information.

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,



Meagan J. Conway
Assistant Attorney General
Open Records Division

MC/gw

Ref: ID# 771593

Enc. Submitted documents

c: Requestor
(w/o enclosures)