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ATTORNEY GENERAL OF TEXAS

August 12, 2019

Ms. Susan Camp-Lee
Counsel for the City of Round Rock
Sheets & Crossfield, P. L. L. C.
309 East Main Street
Round Rock, Texas 78664-5246

OR2019-22239

Dear Ms. Camp-Lee:

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# 780045 (Ref. No. W009900-051719).

The City of Round Rock (the "city"), which you represent, received a request for all information related to a specified incident.¹ You state you have released some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.107(2) and 552.108 of the Government Code.² We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the submitted information includes law enforcement 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:

¹You state the city sought and received clarification of the information requested. See Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); see also *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

²We understand you to argue section 552.107(2) of the Government Code based on the substance of your argument.

- (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.³ 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 requestors 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 “[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 Exhibit B pertains to a pending criminal investigation and release of this information would interfere with the investigation or prosecution of the case. Based upon this representation, we conclude the release of the information at issue 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 information in Exhibit B.

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 “front-page” information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-87; *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of the basic information, the city may withhold the remaining information in Exhibit B under section 552.108(a)(1) of the Government Code.

Section 552.107(2) of the Government Code provides information is excepted from disclosure if “a court by order has prohibited disclosure of the information.” Gov’t Code

³As we are able to make this determination, we need not address your argument against disclosure of this information.

§ 552.107(2). Article 18B.354 of the Code of Criminal Procedure permits a court, on application by an authorized peace officer, to issue a search warrant for electronic customer data held in electronic storage. *See* Crim. Proc. Code art. 18B.354; *see also id.* art. 18B.001 (defining terms). Article 18B.105 states “[a] district court shall seal an application and order granted under this chapter.” *Id.* art. 18B.105. The information in Exhibits C and D consists of applications for court orders, supporting affidavits, and court orders granted under article 18B.354. You state article 18B.105 requires these documents to be sealed. As the documents at issue have been sealed by a court pursuant to article 18B.105, we conclude the city must withhold Exhibits C and D under section 552.107(2) of the Government Code.

In summary, pursuant to section 1701.661 of the Occupations Code, our ruling does not reach the submitted body worn camera recordings and they need not be released. With the exception of the basic information, which must be released, the city may withhold the remaining information in Exhibit B under section 552.108(a)(1) of the Government Code. The city must withhold Exhibits C and D under section 552.107(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/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,



Tim Neal
Assistant Attorney General
Open Records Division

TN/jxd

Ref: ID# 780045

Enc. Submitted documents

c: Requestor
(w/o enclosures)