



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 21, 2019

Ms. Mary King
Criminal Investigation Division/Records
Bastrop County Sheriff's Office
200 Jackson Street
Bastrop, Texas 78602

OR2019-23309

Dear Ms. King:

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# 781762.

The Bastrop County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a specified incident. You state the sheriff's office released some information to the requestor. You also claim some of the requested information is not in the possession of the sheriff's office.¹ You claim the submitted information is excepted from disclosure under sections 552.130 and 552.147 of the Government Code.² We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the submitted information includes peace 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:

¹ The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

² Although you do not raise section 552.147, we understand you to assert this based on the substance of your argument. You also raise section 552.101 of the Government Code, but you make no arguments to support this exception. Therefore, we assume you withdrew your claim that this section applies to the submitted information. *See Gov't Code* §§ 552.301, .302. We note, and you acknowledge, the sheriff's office failed to comply with section 552.301(b) of the Government Code in requesting this decision. *See id.* § 552.301(b). Nonetheless, because section 552.130 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will consider whether it applies to the submitted information. *See id.* §§ 552.007, .302, .352

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 recordings at issue pursuant to chapter 1701, our ruling does not reach this information and the sheriff's office need not release it.³ 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 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release. Gov't Code § 552.130(a). Upon review, we find the remaining video recordings contain information subject to section 552.130. You state the sheriff's office lacks the technological capability to redact motor vehicle record information from video recordings. Accordingly, the sheriff's office must withhold the remaining recordings in their entirety under section 552.130 of the Government Code.⁴ *See* Open Records Decision No. 364 (1983).

In summary, 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 the sheriff's office need not release it. The sheriff's office must withhold the remaining recordings in their entirety under section 552.130 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open

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

⁴ As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

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Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick P. Mehaffy". The signature is fluid and cursive, with a large, stylized initial "P".

Patrick P. Mehaffy
Assistant Attorney General
Open Records Division

PPM/gw

Ref: ID# 781762

Enc. Submitted documents

c: Requestor
(w/o enclosures)