



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 12, 2019

Deputy Danie Huffman
Public Information Officer
Parker County Sheriff's Office
129 Hogle Street
Weatherford, Texas 76086

OR2019-31863

Dear Deputy Huffman:

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# 796543 (Ref. OR19-915).

The Parker County Sheriff's Office (the "sheriff's office") received a request for information pertaining to specified incidents.¹ You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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 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

¹ You state the sheriff's office sent the requestor a cost estimate of charges pursuant to section 552.2615 of the Government Code. See Gov't Code § 552.2615

(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 of the Occupations Code, our ruling does not reach this information and they need not be released.² 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). However, we note the remaining video recordings consist of dash camera recordings and a recorded video interview. This information does not consist of body worn camera recordings. Therefore, the remaining video camera recordings are not subject to section 1701.661 of the Occupations Code, and the sheriff’s office may not withhold any portion of the remaining video recordings on that basis.

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 . . . 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). You state case numbers 2019-00502 and 2019-00507 are currently pending prosecution. Based on 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 information you marked related to case numbers 2019-00502 and 2019-00507, and the sheriff’s office may withhold it on that basis.³

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 remaining information you have marked relates to a closed criminal investigation that did not result in conviction or deferred adjudication. Based on this representation and our review, we agree section 552.108(a)(2)

² As we are able to make this determination, we need not address your arguments against disclosure of the body worn camera recordings.

³ As our ruling is dispositive, we need not address your remaining argument for disclosure of this information.

is applicable to the information at issue and the sheriff's office may withhold the information you marked under section 552.108(a)(2).⁴

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. Under the common-law right of privacy, an individual has a right to be free from the publicizing of private affairs in which the public has no legitimate concern. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The Third Court of Appeals has concluded public citizens' dates of birth are protected by common-law privacy pursuant to section 552.101. *See Paxton v. City of Dallas*, No. 03-13-00546-CV, 2015 WL 3394061, at *3 (Tex. App.—Austin May 22, 2015, pet. denied) (mem. op.). Thus, the sheriff's office must withhold the public citizen's date of birth we marked in the remaining information under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, as the requestor did not properly request the body worn camera recordings at issue pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information and it need not be released. The sheriff's office may withhold the information you marked related to case numbers 2019-00502 and 2019-00507 under section 552.108(a)(1) of the Government Code and the remaining information you marked under section 552.108(a)(2) of the Government Code. The sheriff's office must withhold the public citizen's date of birth we marked in the remaining information under section 552.101 of the Government Code in conjunction with common-law privacy. The remaining information must be released.

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 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,



Pearlie Gault
Attorney
Open Records Division

PG/eb

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

Ref: ID# 796543

Enc. Submitted documents

c: Requestor
(w/o enclosures)