



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 4, 2019

Ms. P. Armstrong  
Assistant City Attorney  
Criminal Law and Police Section  
City of Dallas  
1400 South Lamar, 6th Floor, 6W  
Dallas, Texas 75215

OR2019-34038

Dear Ms. Armstrong:

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# 799336 (ORR Nos. D026978-091119 and D026996-091119).

The Dallas Police Department (the "department") received two requests from different requestors for information pertaining to a specified incident. You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.1175, 552.130, and 552.136 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>2</sup>

Initially, we note the submitted information includes body worn camera recordings of a police officer. Body worn cameras are subject to chapter 1701 of the Occupations Code.

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<sup>1</sup> Although the department raises section 552.117, we note section 552.1175 is the correct exception to raise for information the department does not hold in its capacity as employer.

<sup>2</sup> We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

Chapter 1701 provides the procedures a requestor must follow when seeking a body worn camera recording. Section 1701.661(a) provides the following:

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). The first requestor does not give the requisite information under section 1701.661(a). As the first 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 department is not required to release those recordings to the first requestor.<sup>3</sup> 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). The second requestor properly requested the body worn camera recordings pursuant to chapter 1701 of the Occupations Code. Therefore, we will address the department’s argument against their disclosure with respect to the remaining request.

Next, we note the first requestor has asked the department to answer questions. The Act does not require a governmental body to answer factual questions, conduct legal research, or create new information in responding to a request. *See* Open Records Decision Nos. 563 at 8 (1990), 555 at 1-2 (1990). However, a governmental body must make a good faith effort to relate a request to information held by the governmental body. *See* Open Records Decision No. 561 at 8 (1990). We assume the department has made a good faith effort to do so.

Section 552.108(a)(1) of the Government Code exempts 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 the information at issue relates to a pending investigation and prosecution. Based on your representation and our review, we find release of the information at issue would interfere with the detection,

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<sup>3</sup>As we are able to make this determination, we do not address the arguments of the department to withhold this information from the first requestor.

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, the department may withhold the information you marked under section 552.108(a)(1) of the Government Code.<sup>4</sup>

Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. Gov't Code § 552.1175. Section 552.1175 applies, in part, to “peace officers as defined by Article 2.12, Code of Criminal Procedure[.]” *Id.* § 552.1175(a)(1). However, we are unable to determine from the information provided if the individual at issue is currently a licensed peace officer. Thus, we must rule conditionally. We note that to the extent the first requestor is a licensed peace officer, the first requestor has a right of access to his information pursuant to section 552.023 of the Government Code. *See id.* § 552.023(a) (“person or a person’s authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and that is protected from public disclosure by laws intended to protect that person’s privacy interests”); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). Accordingly, to the extent the information at issue relates to an individual who is currently licensed as a peace officer and who elects to restrict access to the information in accordance with section 552.1175(b), the department must withhold the information you marked from the second requestor under section 552.1175 of the Government Code. Conversely, if the individual whose information is at issue is not currently licensed as a peace officer or does not elect to restrict access to his information in accordance with section 552.1175(b), the marked information may not be withheld under section 552.1175. In either event, the information at issue may not be withheld from the first requestor.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s or driver’s license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *Id.* § 552.130(a). The first requestor has a right of access to his own motor vehicle record information pursuant to section 552.023 of the Government Code. *See id.* § 552.023(a); ORD 481 at 4. With the exception of information pertaining to the first requestor, the department must withhold the motor vehicle record information you marked from the first requestor under section 552.130 of the Government Code. The department must withhold the motor vehicle record information you marked from the second requestor under section 552.130 of the Government Code.

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


Section 552.136(b) of the Government Code provides, “[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” Gov’t Code § 552.136(b); *see id.* § 552.136(a) (defining “access device”). We understand the employee identification number you marked is used in conjunction with one additional digit to access city credit union bank accounts. Accordingly, the department must withhold the information you marked under section 552.136 of the Government Code.

In summary, as the first 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 the department is not required to release those recordings to the first requestor. The department may withhold the information you marked under section 552.108(a)(1) of the Government Code. To the extent the information at issue relates to an individual who is currently licensed as a peace officer and who elects to restrict access to the information in accordance with section 552.1175(b), the department must withhold the information you marked from the second requestor under section 552.1175 of the Government Code. With the exception of information pertaining to the first requestor, the department must withhold the motor vehicle record information you marked from the first requestor under section 552.130 of the Government Code. The department must withhold the motor vehicle record information you marked from the second requestor under section 552.130 of the Government Code. The department must withhold the information you marked under section 552.136 of the Government Code. The department 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 <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,



Kelly McWethy  
Assistant Attorney General  
Open Records Division

KM/gw

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Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)