



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 9, 2019

Ms. Mary E. Miller  
Assistant District Attorney  
Denton County Sheriff's Office  
127 North Woodrow Lane, Suite 300  
Denton, Texas 76205

OR2019-34589

Dear Ms. Miller:

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# 800795 (ORR Nos.: S002504, S002470, S002508, S002509, S002518, and S002521).

The Denton County Sheriff's Office (the "sheriff's office") received six requests from five different requestors for information pertaining to a specified incident. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.117, 552.119, 552.130, 552.136, and 552.152 of the Government Code. We have also received and considered comments from a representative of one of the requestors. *See* Gov't Code § 552.304 (permitting interested third party to submit to attorney general reasons why requested information should or should not be released). We have considered the submitted arguments and reviewed the submitted information, a portion of which is a representative sample.<sup>1</sup>

Initially, we note the submitted information includes officers' body worn camera video recordings. Body worn cameras are subject to chapter 1701 of the Occupations Code.

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<sup>1</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 that 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 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, two of the requestors do not provide the requisite information under section 1701.661 (a) for the submitted body worn camera video. As this information was not properly requested pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information and it need not be released to these requestors. We note, 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, as the remaining requestors provided the requisite information under section 1701.661(a) for the body worn camera video recordings at issue, we will consider whether the body worn camera video recordings at issue are otherwise excepted from disclosure.

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). The sheriff’s office states the submitted information pertains to an active criminal investigation or 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 submitted information.

However, we note 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). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic

information). We note basic information does not include motor vehicle record information subject to section 552.130 of the Government Code. *See* ORD 127 at 3-4. Thus, with the exception of the basic information, which must be released, the sheriff's office may withhold the remaining information at issue under section 552.108(a)(1) of the Government Code.<sup>2</sup>

You seek to withhold the identifying information of undercover officers from the remaining information. Section 552.152 of the Government Code provides:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Gov't Code § 552.152. You inform us the remaining information identifies undercover police officers. You assert release of their identities would jeopardize their safety and subject the officers to a substantial threat of physical harm. Therefore, we find section 552.152 is applicable to the identity of the undercover officers within the information at issue. Accordingly, the sheriff's office must withhold the identifying information of the undercover officers you marked under section 552.152 of the Government Code.

In summary, with respect to the requestors who did not provide the requisite information under section 1701.661(a) of the Occupations Code for the submitted body worn camera video, our ruling does not reach this information and it need not be released to these requestors. With the exception of the basic information, the sheriff's office may withhold the remaining information at issue under section 552.108(a)(1) of the Government Code. In releasing the basic information, the sheriff's office must withhold the identifying information of the undercover officers you marked under section 552.152 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 Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable

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

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 cursive script that reads "D. Michelle Case". The signature is written in black ink and includes a long horizontal flourish extending to the right.

D. Michelle Case  
Assistant Attorney General  
Open Records Division

DMC/mo

Ref: ID# 800795

Enc. Submitted documents

c: Requestor  
(w/o enclosures)