



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 3, 2020

Ms. Sylvia McClellan
Assistant City Attorney
City of Dallas
1400 South Lamar, 6th Floor, 6W
Dallas, Texas 75215

OR2020-00181

Dear Ms. McClellan:

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# 811459 (ORR No. D029907).

The Dallas Police Department (the "department") received a request for body-worn camera video pertaining to a specified case number. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code.¹ We have considered the submitted arguments and reviewed the submitted representative sample of information.²

¹We note, and you acknowledge, the department did not comply with the requirements of section 552.301 of the Government Code in providing the information at issue. *See* Gov't Code § 552.301(b), (e). Nonetheless, we note sections 552.101, 552.130, and 552.136 of the Government Code and the interests of a third party can provide compelling reasons to overcome the presumption of openness, we will consider their applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

²We 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.

Initially, we note the submitted police report is not responsive to the present request. This ruling does not address the public availability of the non-responsive information and the department need not release it in response to this request.

Next, we note the responsive information consists of body worn camera recordings. Body worn cameras are subject to chapter 1701 of the Occupations Code. Section 552.101 of the Government Code exempts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Chapter 1701 provides the procedures a requestor must follow when seeking a body worn camera recording. Section 1701.661(a) provides:

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.

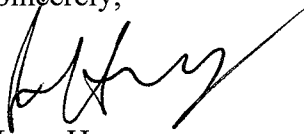
Occ. Code § 1701.661(a). We note the requestor provided the requisite information under section 1701.661(a) for the requested information. As the responsive information was properly requested pursuant to chapter 1701 of the Occupations Code, we will address your argument against its disclosure.

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: (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). The states, and provides documentation showing, the district attorney’s office objects to the release of the responsive information because it relates to an active criminal investigation. Based upon this representation, we conclude the release of the responsive information would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publishing 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) of the Government Code is applicable to the responsive information and may be withheld on that basis on behalf of the district attorney’s office.

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,

A handwritten signature in black ink, appearing to read "Jesse Harvey", written over a horizontal line.

Jesse Harvey
Assistant Attorney General
Open Records Division

JHI/mo

Ref: ID# 811459

Enc. Submitted documents

c: Requestor
(w/o enclosures)