



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 27, 2020

Ms. Stephanie Berry  
Assistant City Attorney  
City of Denton  
215 East McKinney Street  
Denton, Texas 76201

OR2020-02388

Dear Ms. Stephanie Berry:

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# 808204 (ORR# R000834-102919).

The City of Denton (the "city") received three requests from different requestors for information pertaining to a specified incident. You claim the submitted information is excepted from disclosure under sections 552.101, 552.103, and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that the second and third requestors seek only video and audio recordings pertaining to the specified incident. Thus, the submitted incident report is not responsive to the second and third requests, and the city need not release any portion of it to the second or third requestors.

Next, we note some of the submitted information consists of 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
- (3) the name of one or more persons known to be a subject of the recording.

Occ. Code § 1701.661(a). In this instance, some of the recordings were not properly requested under section 1701.661(a). As these requestors did not properly request the body worn camera recording at issue pursuant to chapter 1701, our ruling does not reach this information and it need not be released to these requestors.<sup>1</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 third requestor properly requested some of the body worn camera recordings pursuant to chapter 1701 of the Occupations Code. Therefore, we will address the city's argument against their disclosure with respect to the third requestor and the properly requested recordings.

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: (1) 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). Where a governmental body possesses information relating to a pending case of a law enforcement agency, the governmental body may withhold the information under section 552.108(a)(1) if it demonstrates the information relates to the pending case and this office is provided with a representation from the law enforcement agency that the law enforcement agency wishes to withhold the information.

You inform us, and provide documentation showing, the Texas Rangers object to the release of the remaining information under section 552.108 because it pertains to a pending criminal investigation by the Texas Rangers. Based on your representations, we conclude the release of the remaining information 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).

However, 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 at 3-4 (1976) (summarizing types of information deemed public

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<sup>1</sup> As we are able to make this determination, we need not address your arguments against disclosure of this information.

by *Houston Chronicle*). Thus, with the exception of basic information, the city may withhold the remaining information under section 552.108(a)(1) of the Government Code on behalf of the Texas Rangers.<sup>2</sup>

In summary, as some of the body worn camera recordings were not properly requested under section 1701.661(a) of the Occupations Code, our ruling does not reach this information and it need not be released to these requestors. With the exception of basic information, which must be released to the first requestor, the city may withhold the remaining information under section 552.108(a)(1) of the Government Code on behalf of the Texas Rangers.

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,



Jesse Harvey  
Assistant Attorney General  
Open Records Division

JHI/be

Ref: ID# 808204

Enc. Submitted documents

c: 3 Requesters  
(w/o enclosures)

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