



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 31, 2020

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

OR2020-03060

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# 809723 (Reference No. D030099-100919).

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

Initially, we note some of the submitted information, which we indicated, is not responsive to the instant request for information because it does not pertain to the specified incident. This ruling does not address the public availability of any information that is not responsive to the request and the department is not required to release such information in responsive to this request.<sup>2</sup>

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

---

<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.

<sup>2</sup> As we are able to make this determination, we need not address the remaining arguments against disclosure of this information.

Chapter 1701 provides the procedures a requestor must follow when seeking a body worn camera recording. Section 1701.661(a) provides, in relevant part, 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). In this instance, the requestor does not give the requisite information under section 1701.661(a) for submitted body worn camera video recordings. As the requestor did not properly request the body worn camera recordings we indicated pursuant to chapter 1701, our ruling does not reach this information and it need not be released.<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).

We note, and you acknowledge, the department failed to meet the statutory deadlines imposed by section 552.301 of the Government Code for withholding the requested information. *See* Gov’t Code § 552.301(b), (e). Pursuant to section 552.302 of the Government Code, a governmental body’s failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ). The need of a governmental body, other than the one that failed to timely seek an open records decision, to withhold information under section 552.108 can provide a compelling reason sufficient to overcome the presumption of openness. Open Records Decision No. 586 (1991). Because you inform us, and provide documentation showing, the Dallas County District Attorney’s Office (the “district attorney’s office”) objects to the release of the information at issue, we will consider whether the department may withhold the remaining information under section 552.108 on behalf of the district attorney’s office. Additionally, sections 552.101, 552.130, and 552.136 can provide compelling reasons to overcome the presumption of openness. Therefore, we will also address the applicability of sections 552.101, 552.130, and 552.136 to the remaining responsive information.

---

<sup>3</sup> As we are able to make this determination, we need not address the remaining arguments against disclosure of this information.

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). 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). You state, and provide documentation showing, the district attorney’s office objects to the release of the remaining responsive information because it pertains to a pending criminal investigation or prosecution. Based upon this representation and our review, we conclude 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). Thus, the department may withhold the remaining responsive information you marked and indicated under section 552.108(a)(1) of the Government Code on behalf of the district attorney’s office.<sup>4</sup>

Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s license, 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. *See* Gov’t Code § 552.130. Accordingly, the department may withhold the motor vehicle record information you marked under section 552.130 of the Government Code.

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.” *Id.* § 552.136(b); *see id.* § 552.136(a) (defining “access device”). You indicate the employee identification numbers you marked are used in conjunction with one additional digit to access city credit union bank accounts. Upon review, we agree the department must withhold the information you marked under section 552.136 of the Government Code.

In summary, as the requestor did not properly request the body worn camera recordings we indicated pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information and it need not be released. The department may withhold the remaining responsive information you marked and indicated under section 552.108(a)(1) of the Government Code on behalf of the district attorney’s office. The department may withhold the motor vehicle record information you marked in the remaining responsive information 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 responsive information.

---

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

A handwritten signature in black ink that reads "Kimbell Kesling". The signature is written in a cursive style with a large, sweeping flourish at the end.

Kimbell Kesling  
Attorney  
Open Records Division

KK/jxd

Ref: ID# 809723

Enc. Submitted documents

c: Requestor  
(w/o enclosures)