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ATTORNEY GENERAL OF TEXAS

February 3, 2020

Mr. Daniel W. Ray
Counsel for Hunt County
Scott, Ray, & Sullivan, P.L.L.C.
P.O. Box 1353
Greenville, Texas 75403

OR2020-03161

Dear Mr. Ray:

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# 809903.

The Hunt County Sheriff's Office (the "sheriff's office"), which you represent, received two requests from two requestors for information related to a specified incident. We understand the sheriff's office has released some information. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the submitted information includes police officers' 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, the requestor does not provide the requisite information under section 1701.661(a). As the body worn camera recordings at issue were not properly requested pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information and it need not be released.¹ However, 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).

We note a portion of the remaining information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2020-02445 (2020). In that ruling, we determined: (1) with the exception of the information subject to section 552.022(a)(17) of the Government Code and basic information, which must be released, the sheriff’s office may withhold the submitted information under section 552.108(a)(1) of the Government Code, and (2) in releasing the information subject to section 552.022(a)(17), the sheriff’s office must withhold the motor vehicle record information we marked under section 552.130 of the Government Code. We have no indication the law, facts, and circumstances on which the prior ruling was based have changed. Therefore, the sheriff’s office must continue to rely on Open Records Letter No. 2020-02445 as a previous determination and withhold or release the identical information in accordance with that ruling.² *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). We will address your arguments against disclosure of the remaining information which is not subject to the previous determination.

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 this exception is applicable to the information at issue. *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 remaining information relates to a pending criminal investigation or prosecution. Based on this representation, we conclude release of the information will interfere with the detection, investigation, or prosecution of crime. *See*

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

² As we are able to make this determination, we need not address your arguments against disclosure of this information.

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). Accordingly, we find the sheriff's office may withhold the remaining information under section 552.108(a)(1) of the Government Code.

In summary, as the body worn camera recordings at issue were not properly requested pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information and it need not be released. The sheriff's office may continue to rely on Open Records Letter No. 2020-02445 as a previous determination and withhold or release the identical information in accordance with that ruling. The sheriff's office may withhold the remaining information under section 552.108(a)(1) 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 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,



Deborah Southerland
Assistant Attorney General
Open Records Division

DS/be

Ref: ID# 809903

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)