



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 4, 2020

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

OR2020-03255

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# 816730.

The Denton County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a specified incident. You state the sheriff's office has released some information. 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.¹ We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the submitted information includes body worn camera recordings pertaining to the incident specified in the present request. 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(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 Although you raise section 552.117 of the Government Code, we note section 552.1175 of the Government Code is the proper exception to raise for information not held in an employment context.

- (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 present request includes the information required by section 1701.661(a) with respect to the body worn camera recordings pertaining to the specified incident. *Id.* § 1701.661(a). Thus, because the requestor properly requested these body worn camera recordings, we will consider your arguments against disclosure of this information.

Next, you state some of the submitted information was the subject of previous requests for information, in response to which this office issued Open Records Letter Nos. 2019-34589 (2019), 2019-35837 (2019), and 2020-00984 (2020). In Open Records Letter No. 2020-00984, we determined, in part, the submitted body camera recordings at issue were not properly requested pursuant to chapter 1701 of the Occupations Code and need not be released. As noted above, the remaining body worn camera recordings pertaining to the specified incident have now been properly requested pursuant to section 1701.661(a) of the Occupations Code. You also state the submitted information includes information added to the investigative report since the time of the original request. Thus, with respect to the properly requested body worn camera recordings and the additional information at issue, we find the circumstances have changed and the sheriff's office may not rely on Open Records Letter No. 2020-00984 as a previous determination with respect to this information. *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). However, we have no indication the law, facts, or circumstances on which the previous rulings were based have changed with respect to the remaining information at issue in Open Records Letter Nos. 2019-34589, 2019-35837, and 2020-00984. Accordingly, with the exception of the properly requested body worn camera recordings and the additional information at issue, we conclude the sheriff's office may rely on Open Records Letter Nos. 2019-34589, 2019-35837, and 2020-00984 as previous determinations and withhold or release the submitted information in accordance with those rulings.²

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

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

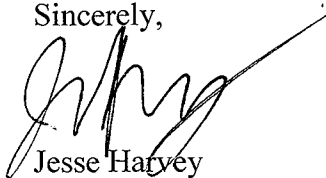
prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime.” Gov’t Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108(a)(1) must explain how and why the release of the requested information would 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 the remaining information relates to an ongoing criminal investigation. Based on these representations and our review, 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). Accordingly, the sheriff’s office may withhold the remaining information under section 552.108(a)(1) of the Government Code.³

In summary, with the exception of the properly requested body worn camera recordings and the additional information at issue, the sheriff’s office may rely on Open Records Letter Nos. 2019-34589, 2019-35837, and 2020-00984 as previous determinations and withhold or release the submitted information in accordance with those rulings as previous determinations. The sheriff’s office may withhold the remaining information pertaining to the specified incident 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,



Jesse Harvey
Assistant Attorney General
Open Records Division

JHI/mo

³ As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

Ref: ID# 816730

Enc. Submitted documents

c: Requestor
(w/o enclosures)