



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 12, 2020

Mr. Barry L. Macha
General Counsel
Midwestern State University
3410 Taft Boulevard
Wichita Falls, Texas 76308-2099

OR2020-07865

Dear Mr. Macha:

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# 816201.

The Midwestern State University (the "university") received a request for photographs and video footage regarding a specified incident.¹ You claim the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the requested information includes an officer's body worn camera video. 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) the date and approximate time of the recording;
- (2) the specific location where the recording occurred; and

¹ You state the university sought and received clarification of the request. See Gov't Code § 552.222(b) (providing that if request for information is unclear, governmental body may ask requestor to clarify request); see also *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when governmental entity, acting in good faith, requests clarification or narrowing of unclear or overbroad request for public information, ten-day period to request attorney general ruling is measured from date request is clarified or narrowed).

(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). As the requestor did not properly request the body worn camera video at issue pursuant to chapter 1701, 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 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).

Next, you state the university previously released the submitted photographs. You now seek to withhold some of the information at issue under section 552.108 of the Government Code. Section 552.007 of the Government Code provides information that has been voluntarily released to a member of the public may not subsequently be withheld from another member of the public, unless public disclosure of the information is expressly prohibited by law or the information is confidential under law. *See* Gov’t Code § 552.007; Open Records Decision Nos. 518 at 3 (1989), 490 at 2 (1988). Thus, pursuant to section 552.007, the university may not withhold previously released information unless its release is expressly prohibited by law or the information is confidential under law. Although you raise section 552.108 of the Government Code, this section is a discretionary exception to disclosure that protects a governmental body’s interests and does not make information confidential under the Act. *See* Gov’t Code § 552.007; Open Records Decision No. 177 at 3 (1977) (statutory predecessor to section 552.108 subject to waiver). Therefore, the university may not now withhold the previously released information under section 552.108 of the Government Code. However, as section 552.130 of the Government Code makes information confidential under the Act, we will consider the applicability of this section to the information at issue. Additionally, we will consider your argument under section 552.108 of the Government Code for the information that was not previously released, which you state is Exhibit B-2.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s or driver’s license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release. Gov’t Code § 552.130(a). Upon review, we find the submitted photographs contain information subject to section 552.130. Accordingly, the university must withhold all visible license plates in the submitted photographs under section 552.130 of the Government Code. *See* Open Records Decision No. 364 (1983).

In summary, as the requestor did not properly request the body worn camera video at issue pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information, and the university need not release it in response to this request for information. The university must withhold all visible license plates in the submitted

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

photographs under section 552.130 of the Government Code. The university must release the remaining 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 "Britni Ramirez". The signature is written in a cursive, slightly slanted style.

Britni Ramirez
Assistant Attorney General
Open Records Division

BR/rm

Ref: ID# 816201

Enc. Submitted documents

c: Requestor
(w/o enclosures)