



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 18, 2020

Ms. Jennifer Smith
Assistant to the Chief of Public Safety
City of Dalworthington Gardens
2600 Roosevelt Drive
Dalworthington Gardens, Texas 76016

OR2020-08489

Dear Ms. Smith:

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# 817221 (CODG PIR Nos. 2019-98 & 2019-99).

The City of Dalworthington Gardens (the "city") received a request for the 9-1-1 audio recordings, dashboard camera video recordings, and body worn camera video recordings pertaining to a specified incident. The city received a second request from a different requestor for the 9-1-1 audio pertaining to the same incident. The city claims the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions the city claims and reviewed the submitted information.

Initially, we note the submitted radio traffic recordings are not responsive to the requests at issue. This ruling does not address the public availability of the non-responsive information and the city need not release them in response to the request.

Next, we note the city has not submitted information responsive to the portion of the first requestor's request for dashboard video recordings. To the extent any information responsive to this portion of the first request existed on the date the city received the request, we assume the city has released it. If the city has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

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). The city states the responsive information relates to a pending criminal investigation or prosecution. Based upon the city’s representation and our review, we conclude release of the information will 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, we find the city may withhold the responsive information under section 552.108(a)(1) of the Government Code.¹

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,

Gerald Arismendez
Assistant Attorney General
Open Records Division

GAA/jxd

Ref: ID# 817221

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)

¹ As our ruling is dispositive, we need not address the city’s remaining arguments against disclosure of this information or the applicability of section 1701.661(a) of the Occupations Code to the submitted video recording. *See generally* Occ. Code § 1701.661(a), (e).