



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 28, 2020

Ms. Julie P. Doshier  
Counsel for City of Allen  
Nichols, Jackson, Dillard, Hagard, & Smith, L.L.P.  
5800 North Akard Street, Suite 1800  
Dallas, Texas 75201

OR2020-14839

Dear Ms. Doshier:

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# 833383 (Reference No. 115064).

The City of Allen (the "city"), which you represent, received a request for information pertaining to a specified incident. You state the city will redact dates of birth pursuant to the previous determination issued in Open Records Letter No. 2018-11817 (2018).<sup>1</sup> You also state the city released some of the requested information. You further state some of the submitted information was not properly requested pursuant to chapter 1701 of the Occupations Code. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the submitted arguments and reviewed the submitted representative sample of information.<sup>2</sup>

Initially, we note the submitted information includes a peace officer's body worn camera recording. Body worn cameras are subject to chapter 1701 of the Occupations Code.

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<sup>1</sup> Open Records Letter No. 2018-11817 is a previous determination issued to the City of Allen authorizing it to withhold the dates of birth of public citizens under section 552.101 of the Government Code in conjunction with common-law privacy without seeking a ruling from this office. *See* Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code).

<sup>2</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 those records contain substantially different types of information than that submitted to this office.

Chapter 1701 provides the procedures a requestor must follow when seeking a body worn camera recording. Section 1701.661(a) of the Occupations Code provides 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 provide the requisite information under section 1701.661(a). As the body worn camera recording at issue was not properly requested pursuant to chapter 1701 of the Occupations Code, 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 [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).

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 information you marked relates to a pending criminal investigation or prosecution. Based on this representation, we conclude release of the information at issue 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 information you marked under section 552.108(a)(1) of the Government Code.<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. Gov’t Code § 552.130. Accordingly, the city must withhold the motor vehicle record information you marked, and the additional information we marked, under section 552.130 of the Government Code.

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

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

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 city may withhold the information you marked under section 552.108(a)(1) of the Government Code. The city must withhold the motor vehicle record information you marked, and the additional information we marked, under section 552.130 of the Government Code. The city 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,

Jahnna Ward  
Assistant Attorney General  
Open Records Division

JW/jlbm

Ref: ID# 833383

Enc. Submitted documents

c: Requestor  
(w/o enclosures)