



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 9, 2020

Ms. Stacie S. White
Counsel to the City of Southlake
Taylor, Olson, Adkins, Sralla & Elam, L.L.P.
6000 Western Place, Suit 200
Fort Worth, Texas 76107

OR2020-30835

Dear Ms. White:

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# 856765.

The Southlake Police Department (the "department"), which you represent, received a request for information related to a specified incident. You state the department will redact information pursuant to section 552.130(c) of the Government Code and Open Records Decision No. 684 (2009).¹ You claim 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, 552.103, and 552.108 of the Government Code. We have considered your arguments 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(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 Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain categories of information without the necessity of requesting an attorney general decision.

- (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 give the requisite information under section 1701.661(a). As the requestor did not properly request the body worn camera recordings at issue pursuant to chapter 1701, our ruling does not reach this information and it need not be released. 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).

You state the remaining information was the subject of previous requests for information, in response to which this office issued Open Records Letter Nos. 2020-28519 (2020), 2020-28331 (2020), and 2020-27049 (2020). We note the requestors in Open Records Letter Nos. 2020-28331 and 2020-27049 had a right of access to some of the information at issue. The requestor in this instance does not have a right of access to this information. Thus, we find the law, facts, or circumstances on which these prior rulings were based have changed since the issuance of these previous rulings, and the department may not rely on Open Records Letter Nos. 2020-28331 or 2020-27049 as previous determinations. *See* Open Records Decision No. 673 at 6-7 (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 information is or is not excepted from disclosure). However, we have no indication the law, facts, or circumstances on which Open Records Letter No. 2020-28519 was based have changed. Accordingly, to the extent the requested information is identical to the information previously requested and ruled upon in on Open Records Letter No. 2020-28519, the department must continue to rely on that ruling as a previous determination and withhold or release the requested information in accordance with it.² However, to the extent the information in the current request is not encompassed by Open Records Letter No. 2020-28519, we will consider the exceptions you raise.

Section 552.108(a) 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: (1) 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 investigation, and release of that

² In this instance, as our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.

information would interfere with the investigation and prosecution of the case. Based upon this representation, we conclude the release of the remaining information 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). Thus, section 552.108(a)(1) is applicable to the remaining information.

However, we note section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). Section 552.108(c) refers to the basic information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-87; see also Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of basic information, which must be released, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code.³

In summary, as the requestor did not properly request the body worn camera recordings at issue pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information and it need not be released. To the extent the requested information is identical to the information previously requested and ruled upon in on Open Records Letter No. 2020-28519, the department must continue to rely on that ruling as a previous determination and withhold or release the requested information in accordance with it.. With the exception of basic information, which must be released, the department 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,

Erin Groff
Assistant Attorney General
Open Records Division

EMG/rm

³ As our ruling is dispositive, we need not address your remaining argument against disclosure of this information, except to note basic information is generally not excepted from public disclosure under section 552.103. See Open Records Decision No. 597 (1991).

Ref: ID# 856765

Enc. Submitted documents

c: Requestor
(w/o enclosures)