



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 12, 2022

Ms. Cynthia Trevino
Counsel for the City of China Grove
Denton, Navarro, Rocha, Bernal & Zech, P.C.
2517 North Main Avenue
San Antonio, Texas 78212-4685

OR2022-19935

Dear Ms. Trevino:

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# 959170 (ORR# 22-128).

The City of China Grove (the "city"), which you represent, received a request for information pertaining to a specified incident and a specified incident report. The city claims the submitted information is either not subject to the Act or 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 information.

The submitted information includes a body worn camera recording of a city police officer. 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 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). The requestor does not give the requisite information under section 1701.661(a). As the requestor did not properly request the body worn camera recording at issue pursuant to chapter 1701, our ruling does not reach this information and the city is not required to release it. 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).

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). A governmental body claiming section 552.108(a)(1) must explain how and why the release of the information at issue 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, 710 (Tex. 1977). The city states the remaining information relates to a pending criminal investigation or prosecution. Based on this representation, we conclude the release of this 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, 186-87 (Tex. Civ. App.—Houston [14th Dist.] 1975) (delineating law enforcement interests present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

Section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See also* Open Records Decision No. 127 (1976) (summarizing the types of information considered to be basic information). The city asserts it need not release basic information in this instance on the basis of the decision in *City of Carrollton v. Paxton*, 490 S.W.3d 187 (Tex. App.—Austin 2016, pet. denied). However, the court in the *Carrollton* case stated “there can be no ‘basic information’ subject to disclosure under [section 552.108(c)] unless there has been ‘an arrest’ or ‘a crime[.]’ [which] would require, in the very least, some sort of determination by law enforcement that a crime has actually occurred, if not also an arrest made, similar to the circumstances addressed in *Houston Chronicle*.” *Id.* at 200. Upon review, we find the city has failed to demonstrate the court’s decision in *Carrollton* is applicable in this instance. Accordingly, we conclude the city must release basic information. With the exception of the basic information, the city may withhold the remaining information under section 552.108(a)(1) of the Government Code.¹

In summary, because the requestor did not properly request the submitted body worn camera recording pursuant to chapter 1701 of the Occupations Code, our ruling does not reach the body worn camera recording at issue and the city is not required to release it. The city must release basic information, but may withhold the remaining information under section 552.108(a)(1) of the Government Code.

¹ As our ruling is dispositive, we do not address the other arguments of the city to withhold this 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,

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/jxd

Ref: ID# 959170

Enc. Submitted documents

c: Requestor
(w/o enclosures)