



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 18, 2016

Mr. Renaldo Stowers
Senior Associate General Counsel
University of North Texas System
1155 Union Circle, #310907
Denton, Texas 76203-5017

OR2016-06337

Dear Mr. Stowers:

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# 602254 (UNT Public Information Request Nos. 003673, 003674, 003675, 003678, and 003687).

The University of North Texas and the University of North Texas Police Department (collectively the "university") received five requests for police reports, 9-1-1 call recordings, surveillance video, video and radio transmissions, dashboard camera video recordings, and body camera video recordings pertaining to a specified incident. You state you released some information. You also state the university does not possess the requested 9-1-1 call recordings.¹ You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.² We have also received and considered comments submitted by a requestor. *See* Gov't Code § 552.304 (providing that

¹The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2(1990), 452 at 3 (1986), 362 at 2 (1983).

²We 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 that those records contain substantially different types of information than that submitted to this office.

interested party may submit written comments regarding why information should or should not be released).

Initially, we note the submitted information includes a university police officer's body worn camera recording. 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
- (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 requestors seeking body worn camera recordings do not give the requisite information under section 1701.661(a). As the requestors did not properly request the body worn camera recording at issue pursuant to chapter 1701, our ruling does not reach this information and it need not be released.³ 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, we note some of the submitted information submitted as responsive to two of the requests for information, which we have marked, is not responsive to the requests because it was created after the university received these requests. This ruling does not address the public availability of any information that is not responsive to the requests and the university is not required to release such information in response to these requests. *See Bustamante*, 562 S.W.2d 266; ORD 452 at 3 (governmental body not required to disclose information that did not exist at time request was received).

Section 552.108(a) of the Government Code exempts 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

³As our ruling is dispositive, we need not address your argument against disclosure of this information.

governmental body claiming section 552.108(a)(1) must reasonably 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, and provide documentation from the Texas Department of Public Safety representing, the information at issue relates to an ongoing criminal investigation by the Texas Rangers and release of that information would interfere with the investigation. Based upon these representations, we conclude the release of the information at issue 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 information at issue. Therefore, with the exception of the portions of the patrol car video recording for which you state you do not raise section 552.108, the city may withhold the responsive information you marked, as well as the submitted audio and remaining video recordings, under section 552.108(a)(1) of the Government Code.

In summary, pursuant to section 1701.661 of the Occupations Code, our ruling does not reach the body worn camera recordings at issue, and they need not be released. With the exception of the portions of the patrol car video recording for which you state you do not raise section 552.108 of the Government Code, the city may withhold the responsive information you marked, as well as the submitted audio and remaining video recordings, under section 552.108(a)(1). The remaining responsive information must be released.

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 http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Matthew Taylor
Assistant Attorney General
Open Records Division

MT/dls

Ref: ID# 602254

Enc. Submitted documents

c: 5 Requestors
(w/o enclosures)