



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 22, 2016

Mr. Andrew Holway
Assistant Criminal District Attorney
Civil Division
Bexar County
101 West Nueva Street, 7th Floor
San Antonio, Texas 78205

OR2016-09057

Dear Mr. Holway:

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# 609399.

The Bexar County Sheriff's Office (the "sheriff's office") received two requests from different requestors: the first was for information about a specified investigation, including the driving record of an involved officer (the "first requestor"), and the second for information about the same investigation (the "second requestor").¹ The sheriff's office claims the requested information is excepted from disclosure under sections 552.101, 552.103, 552.108, 552.1175, and 552.130 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

Initially, we note the sheriff's office did not submit the requested information pertaining to the driving record of the officer at issue. We assume, to the extent this information existed when the sheriff's office received the request for information, the sheriff's office has released

¹The sheriff's office sought and received clarification of the information requested. *See* Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (if governmental entity, acting in good faith, requests clarification of unclear or over-broad request, ten-day period to request attorney general ruling is measured from date request is clarified).

it to the first requestor. If not, then the sheriff's office must do so immediately. *See* Gov't Code §§ 552.006, .301, .302; Open Records Decision No. 664 (2000).

We next note the submitted information includes a city police officer's 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 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). Neither requestor gives the requisite information under section 1701.661(a). As neither requestor properly requested the body worn camera recordings at issue pursuant to chapter 1701, our ruling does not reach these recordings and the sheriff's office is not required to release them. 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).

The remaining information contains a CR-3 accident report that is subject to chapter 550 of the Transportation Code. Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information subject to chapter 550 of the Transportation Code. Section 550.065 applies only to a written report of an accident required under section 550.061, 550.062, or 601.004. Transp. Code § 550.065(a)(1). Chapter 550 requires the creation of a written report when the accident resulted in injury to or the death of a person or damage to the property of any person to the apparent extent of \$1,000 or more. *Id.* §§ 550.061 (operator's accident report), .062 (officer's accident report). An accident report is privileged and for the confidential use of the Texas Department of Transportation or a local governmental agency of Texas that has use for the information for accident prevention purposes. *Id.* § 550.065(b). However, a governmental entity may release an accident report in accordance with subsections (c) and (c-1). *Id.* § 550.065(c), (c-1)). Section 550.065(c) provides a governmental entity shall release an accident report to a person or entity listed under this subsection. *Id.* § 550.065(c).

The requestors are persons listed under section 550.065(c). Although the sheriff's office asserts sections 552.103 and 552.108 to withhold the report at issue, a statutory right of access prevails over the Act's general exceptions to public disclosure. *See, e.g.*, Open Records Decision Nos. 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information), 451 (1986) (specific statutory right of access provisions overcome general exception to disclosure under the Act). Sections 552.103 and 552.108 are general exceptions under the Act. Consequently, the sheriff's office must release the CR-3 accident report in its entirety to the requestors pursuant to section 550.065(c).

The sheriff's office asserts the remaining information is excepted from disclosure under section 552.108(a) of the Government Code, which 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 reasonably 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 sheriff's office 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. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, the sheriff's office may withhold the remaining information under section 552.108(a)(1) of the Government Code.²

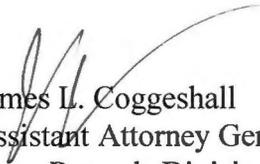
To conclude, the sheriff's office is not required to release the submitted body worn camera recordings. The sheriff's office must release the submitted accident report to the requestors pursuant to section 550.065(c) of the Transportation Code. With the exception of basic information, which the sheriff's office must release, the sheriff's office may withhold the remaining information under section 552.108(a)(1) of the Government Code.

²As our ruling is dispositive, we do not address the other arguments of the sheriff's office to withhold this information, except to note basic information may not be withheld from public disclosure under section 552.103. *See* Open Records Decision No. 597 at 2-3 (1991).

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/bhf

Ref: ID# 609399

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)