



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 30, 2016

Ms. Rachel Saucier
Legal Assistant
City of Georgetown
P.O. Box 409
Georgetown, Texas 78627-0409

OR2016-14935

Dear Ms. Saucier:

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# 617260.

The City of Georgetown (the "city") received a request for information pertaining to a specified incident involving the requestor. You state you have released some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim 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) 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) of the Occupations Code. 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).

Article 2.139 of the Code of Criminal Procedure, as added by House Bill 3791 by the 84th Texas Legislature,¹ provides:

A person stopped or arrested on suspicion of an offense under Section 49.04, 49.045, 49.07, or 49.08, Penal Code, is entitled to receive from a law enforcement agency employing the peace officer who made the stop or arrest a copy of any video made by or at the direction of the officer that contains footage of:

- (1) the stop;
- (2) the arrest;
- (3) the conduct of the person stopped during any interaction with the officer, including during the administration of a field sobriety test; or
- (4) a procedure in which a specimen of the person’s breath or blood is taken.

Crim. Proc. Code art. 2.139. We note the remaining information includes dashboard camera video recordings made by or at the direction of an officer employed by the city’s police department and contains footage of the requestor being stopped or arrested on suspicion of an offense under section 49.04 of the Penal Code. Penal Code § 49.04 (person commits offense if person is intoxicated while operating motor vehicle in public place). Therefore, the requestor is entitled to receive a copy of the submitted dashboard camera video recordings pursuant to article 2.139 of the Code of Criminal Procedure. Although you assert

¹Act of May 30, 2015, 84th Leg., R.S., ch. 1124, § 1 (codified at Crim. Proc. Code art. 2.139).

section 552.108 of the Government Code to withhold this information, 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). Because section 552.108 is a general exception under the Act, the requestor's statutory access under article 2.139 prevails and the city may not withhold the video recordings at issue under section 552.108.

You also raise section 552.130 of the Government Code for the dashboard camera video recordings. Section 552.130 provides information relating to a motor vehicle operator's or 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(a). We note a statutory right of access generally prevails over the Act's general exceptions to disclosure. *See* ORDs 613 at 4, 451. However, because section 552.130 has its own access provisions, we conclude section 552.130 is not a general exception under the Act. Thus, we must address the conflict between the confidentiality provided under section 552.130 and the right of access provided under article 2.139 of the Code of Criminal Procedure. Where information falls within both a general and a specific provision of law, the specific provision prevails over the general, unless the general provision was enacted later and there is clear evidence that the legislature intended the general provision to prevail. *See Horizon/CMS Healthcare Corp. v. Auld*, 34 S.W.3d 887, 901 (Tex. 2000) ("more specific statute controls over the more general"); *Cuellar v. State*, 521 S.W.2d 211 (Tex. Crim. App. 1975) (under well-established rule of statutory construction, specific statutory provisions prevail over general ones). In this instance, section 552.130 generally excepts motor vehicle record information maintained in any context, while article 2.139 specifically provides access to certain video footage pertaining to certain intoxication offense arrests. Thus, we conclude the access to the video recordings at issue provided under article 2.139 is more specific than the general confidentiality provided under section 552.130. Additionally, we note article 2.139 is the later enacted statute. *See* Gov't Code § 311.025(a) (if statutes enacted at different sessions of legislature are irreconcilable, statute latest in enactment prevails). Accordingly, the city may not withhold any portion of the submitted dashboard camera video recordings under section 552.130, and the video recordings at issue must be released pursuant to article 2.139.

Next, we note the remaining information includes the blood test results of an arrestee's blood alcohol content. Full information concerning the analysis of the specimen must be made available upon the request of the person who has given the specimen at the request of a peace officer. *See* Transp. Code § 724.018. Here, the requestor is the individual who submitted the specimen. You seek to withhold this information under section 552.108 of the Government Code. Because section 552.108 is a general exception under the Act, the requestor's statutory access under section 724.018 of the Transportation Code prevails, and

the city may not withhold the information at issue under section 552.108. *See* ORD 451. Thus, the city must release the blood test results to this requestor pursuant to section 724.018.

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). 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, 710 (Tex. 1977). You state the remaining information relates to a pending criminal prosecution. 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, 186-87 (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, 560-61 (Tex. 1976). Thus, section 552.108(a)(1) is applicable to the remaining information.

However, section 552.108(a)(1) of the Government Code 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 186-87; 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 city may withhold the remaining information under section 552.108(a)(1).

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. The city must release to this requestor the submitted dash camera video recordings pursuant to article 2.139 of the Code of Criminal Procedure and the blood test results pursuant to section 724.018 of the Transportation Code. With the exception of basic information, which must be released, the city 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 <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,

A handwritten signature in black ink, appearing to read 'Meredith L. Coffman', with a long horizontal line extending to the right.

Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/bw

Ref: ID# 617260

Enc. Submitted documents

c: Requestor
(w/o enclosures)