



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 4, 2016

Ms. Alexis G. Allen
Counsel for the City of Lancaster
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
1800 Ross Tower
500 North Akard Street
Dallas, Texas 75201

OR2016-24659

Dear Ms. Allen:

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# 633599 (File Ref. #78736).

The Lancaster Police Department (the "department"), which you represent, received a request for information regarding a specified automotive accident, including video and audio recordings and information related to responding officers. You state you have released some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.117 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We have also received and considered the comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit written comments regarding availability of requested information).

Initially, we address the requestor's contention the department did not comply with the procedural requirements of the Act. Section 552.301 of the Government Code describes the procedural obligations placed on a governmental body that receives a written request for information it wishes to withhold. *See id.* § 552.301. Pursuant to section 552.301(b), the governmental body must request a ruling from this office and state the exceptions to disclosure that apply within ten business days after receiving the request. *See id.* § 552.301(b). Pursuant to section 552.301(d), a governmental body must provide the requestor with (1) a written statement that the governmental body wishes to withhold the requested information and has asked for a decision from the attorney general, and (2) a copy of the governmental body's written communications to the attorney general within ten business days of receiving the request for information. *Id.* § 552.301(d). Pursuant to

section 552.302, a governmental body's failure to timely provide the requestor with a copy of its written communication to this office results in the presumption that the information is public. *Id.* § 552.302. You state, and the requestor confirms, the department received the instant request for information on August 19, 2016. This office does not count the date the request was received or days the governmental body is closed for the purpose of calculating a governmental body's deadlines under the Act. Thus, the ten-business-day deadline to provide information to this office pursuant to section 552.301(b) and to the requestor pursuant to section 552.301(d) was September 2, 2016. The envelope in which you provided the information required by section 552.301(b) was postmarked September 1, 2016. *See id.* § 552.308(a)(1) (describing rules for calculating submission dates of documents sent via first class United States mail, common or contract carrier, or interagency mail). The request for a ruling indicates the requestor was copied on the correspondence. *See id.* Accordingly, we find the department complied with the procedural requirements mandated by sections 552.301(b) and 552.301(d). Therefore, we will consider your arguments against disclosure of the submitted information.

Next, we note some of the submitted information, which we have marked, is not responsive to the request because it was created after the department received the instant request. This ruling does not address the public availability of any information that is not responsive to the request and the department is not required to release such information in response to this request.¹

Next, we note the submitted information includes a 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 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

¹As we are able to make this determination, we need not address your argument against disclosure of this information.

information and it need not be released.² 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 552.130 provides information relating to a motor vehicle operator’s or driver’s license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release. Gov’t Code § 552.130(a). We note the remaining video recording contains motor vehicle record information subject to section 552.130. You state the department does not have the technological capability to redact this motor vehicle record information from the recording. Accordingly, we conclude the department must withhold the remaining video recording in its entirety under section 552.130 of the Government Code. *See* Open Records Decision No. 364 (1983).

In summary, pursuant to section 1701.661 of the Occupations Code, the submitted body worn camera recording was not properly requested by the requestor pursuant to chapter 1701 of the Occupations Code; thus, our ruling does not reach the submitted body worn camera recording and the department is not required to release it. The department must withhold the remaining video recording in its entirety under section 552.130 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,



Tim Neal
Assistant Attorney General
Open Records Division

TN/bhf

²As our ruling is dispositive, we need not address your argument against disclosure of this information.

Ref: ID# 633599

Enc. Submitted documents

c: Requestor
(w/o enclosures)