



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 31, 2017

Mr. Joseph J. Gorfida, Jr.
Counsel for the City of Midlothian
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
500 North Akard Street, Suite 1800
Dallas, Texas 75201

OR2017-11916

Dear Mr. Gorfida:

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# 660231 (Ref. # 84695).

The City of Midlothian (the "city"), which you represent, received a request for specified video recordings pertaining to an officer involved shooting. 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.

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). 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 (Tex. 1977). Section 552.108 may be invoked by the proper custodian of information relating to an investigation or prosecution of criminal conduct. *See Open Records Decision No. 474 at 4-5 (1987)*. Where a governmental body has custody of information relating to a pending case of another law enforcement agency, the custodian of records may withhold the information if it provides this office with a demonstration the information relates to a pending criminal case and a representation from the law enforcement agency that it wishes to have the

information withheld. The city asserts the information at issue relates to a pending investigation being conducted by the Texas Rangers. However, the city has not provided a representation from the Texas Rangers, nor have the Texas Rangers provided a representation to this office, stating they wish to withhold the information at issue. Furthermore, in subsequent communications with this office you informed us that you received a representation from the Texas Rangers stating the information at issue pertains to a closed investigation. Therefore, you have failed to demonstrate the applicability of section 552.108(a)(1). Accordingly, the city may not withhold the submitted information under section 552.108(a)(1) of the Government Code.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, 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. *See* Gov't Code § 552.130. Upon review, we find some of the submitted video recordings contain motor vehicle record information. You state the city lacks the technological capability to redact the confidential information in the video recordings. Accordingly, the city must withhold the video recordings we have indicated in their entireties under section 552.130 of the Government Code. *See* Open Records Decision No. 364 (1983). However, none of the remaining video recordings are subject to section 552.130. Thus, the city may not withhold any of the remaining video recordings under section 552.130 of the Government Code. The city must release the remaining 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 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,



Sidney M. Pounds
Assistant Attorney General
Open Records Division

SMP/tdw

Ref: ID# 660231

Enc. Submitted documents

c: Requestor
(w/o enclosures)