



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 20, 2019

Ms. Debra A. Smith  
Custodian of Police Records  
Jersey Village Police Department  
16401 Lakeview Drive  
Jersey Village, Texas 77040

OR2019-04796

Dear Ms. Smith:

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# 751101 (PD PIR# 27).

The Jersey Village Police Department (the "department") received a request for all photos, videos, and 911 calls pertaining to a specified incident. You claim the requested information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim.

We must address the department's obligations under section 552.301 of the Government Code, which prescribes the procedures a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Pursuant to section 552.301(e), a governmental body must submit to this office within fifteen business days of receiving a request for information it seeks to withhold a copy of the specific information requested or representative samples of the information. *See Gov't Code* § 552.301(e)(1)(D). As of the date of this letter, the department has not submitted to this office a copy or representative sample of the requested information. You inform us the requested information is stored on "two (2) 3 ½ Floppy Disks, four (4) VHS tapes, one (1) unreadable Secret Service CD, and one (1) unreadable CD of unknown type." Although you state the department is unable to review or copy this information because it "does not have the equipment or the software to review the . . . listed types of media," we note the fifteen-business-day deadline to submit a copy of the information requested is statutorily imposed on the department by section 552.301(e), and this office is required to adhere to this provision when determining the timeliness of the submissions made by the department for purposes of requesting a ruling under the Act. *See id.* §§ 552.301, .302, .306. Additionally, we note a governmental body may not decline to comply with the requirements of the Act on the ground of administrative inconvenience. *See Indus. Found. v. Tex. Indus. Accident*

*Bd.*, 540 S.W.2d 668, 687 (Tex. 1976). We conclude the department failed to comply with the procedural requirements mandated by section 552.301(e) regarding the information at issue.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information from disclosure. *See* Gov't Code § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ). Although the department raises exceptions to disclosure, because you have not submitted the requested information for our review, we have no basis for finding any of the information excepted from disclosure. Thus, we have no choice but to order the requested information released pursuant to section 552.302. If you believe the information may not lawfully be released, you must challenge this ruling in court pursuant to section 552.324 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](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,



Emily Kunst  
Assistant Attorney General  
Open Records Division

EK/gw

Ref: ID# 751101

c: Requestor