



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 12, 2019

Ms. Julie Pandya Doshier  
Counsel for City of Lake Dallas  
Nichols, Jackson, Dillard, Hager & Smith, LLP  
1800 Ross Tower  
500 North Akard Street  
Dallas, Texas 75201

OR2019-05110A

Dear Ms. Doshier:

Our office issued Open Records Letter No. 2019-05110 (2019) on February 22, 2019. Since that date, we have received new information that affects the facts on which this ruling was based. Consequently, this decision serves as the correct ruling and is a substitute for the decision issued on February 22, 2019. *See generally* Gov't Code 552.011 (providing that Office of Attorney General may issue decision to maintain uniformity in application, operation, and interpretation of Public Information Act (the "Act"), chapter 552 of the Government Code).

You ask whether certain information is subject to required public disclosure under the Act. Your request was assigned ID# 760203.

The City of Lake Dallas (the "city"), which you represent, received a request for specified police department policies, photos, video and audio recordings, and meeting agenda items and minutes related to a specified incident. You state the city does not possess some of the requested information.<sup>1</sup> You claim body worn camera recordings were not properly

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<sup>1</sup>The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

requested pursuant to section 1701.661 of the Occupations Code. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered your arguments and reviewed the submitted representative sample of information.<sup>2</sup>

Initially, you claim some of the submitted information consists of police officer body worn camera recordings. Body worn cameras are subject to chapter 1701 of the Occupations Code. 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). We note the submitted video recordings consist of dash camera recordings from police vehicles. We find this information does not consist of body worn camera recordings. Therefore, this information is not subject to section 1701.661 of the Occupations Code and the city may not withhold any portion of the submitted video recordings on that basis.

Section 552.108(b)(1) of the Government Code excepts from disclosure the internal records and notations of law enforcement agencies and prosecutors when their release would interfere with law enforcement and crime prevention. Gov't Code § 552.108(b)(1); *see also* Open Records Decision No. 531 at 2 (1989) (quoting *Ex parte Pruitt*, 551 S.W.2d 706). A governmental body claiming section 552.108(b)(1) must explain how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706. Section 552.108(b)(1) is intended to protect "information which, if released, would permit private citizens to anticipate weaknesses in a police department, avoid detection, jeopardize officer safety, and generally undermine police efforts to effectuate the laws of this State." *See City of Fort Worth v. Cornyn*, 86 S.W.3d 320 at 327 (Tex. App.—Austin 2002, no pet.). This office has concluded section 552.108(b)(1) excepts from public disclosure information

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<sup>2</sup>We assume the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

relating to the security or operation of a law enforcement agency. *See, e.g.*, Open Records Decision Nos. 531 (release of detailed use of force guidelines would unduly interfere with law enforcement), 252 (1980) (section 552.108 of the Government Code is designed to protect investigative techniques and procedures used in law enforcement), 143 (1976) (disclosure of specific operations or specialized equipment directly related to investigation or detection of crime may be excepted). Section 552.108(b)(1) is not applicable, however, to generally known policies and procedures. *See, e.g.*, ORDs 531 at 2-3 (Penal Code provisions, common law rules, and constitutional limitations on use of force not protected), 252 at 3 (governmental body failed to indicate why investigative procedures and techniques requested were any different from those commonly known).

You assert the submitted information consists of internal records created by the city's police department. You argue release of the information at issue would interfere with law enforcement by allowing criminals to avoid detection. Upon review, we find the release of portions of the submitted information, which we marked and indicated, would interfere with law enforcement. Accordingly, the city may withhold the information we marked and indicated under section 552.108(b)(1) of the Government Code. However, we find you have not demonstrated the release of the remaining information at issue would interfere with law enforcement or crime prevention. Accordingly, the city may not withhold any of the remaining information under section 552.108(b)(1) of the Government Code.

We note the remaining information consists of video recordings that contain motor vehicle record information subject to section 552.130 of the Government Code.<sup>3</sup> Section 552.130 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.* You state the city lacks the technological capability to redact information from the remaining video recordings. Accordingly, the city must withhold the remaining video recordings in their entireties under section 552.130 of the Government Code. *See Open Records Decision No. 364 (1983).*

In summary, the city may withhold the information we marked and indicated under section 552.108(b)(1) of the Government Code. The city must withhold the remaining video recordings in their entireties under section 552.130 of the Government Code.

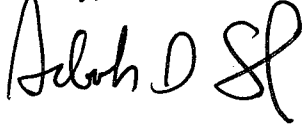
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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<sup>3</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).*

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,

A handwritten signature in black ink, appearing to read "Deborah D. Southerland". The signature is written in a cursive style with a large, stylized "D" and "S".

Deborah Southerland  
Attorney  
Open Records Division

DS/gw

Ref: ID# 766203

Enc. Submitted documents

c: Requestor  
(w/o enclosures)