



# LEXINGTON POLICE DEPARTMENT

150 East Main Street • Lexington, KY 40507 • (859) 258-3600

**OR-23-1061**

April 26, 2023

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**OR-23-1061** Re: A copy of “Body worn video, reports, and documents/records known to exist for April 10, 2023 investigation/events leading to arrest of Javier Manriquez/”Nicholas Ruiz””.

Dear Paul Oliva,

In response to your request received on April 21, 2023 where you requested a copy of the abovementioned documentation: Pursuant to your request our office searched our available records and located incident number **2023-66584**. Our records indicate this incident references an open investigation. Additionally, incident number **2023-72786** has been linked to the above stated case number. According to our records incident **2023-66584** is considered an open investigation and incident **2023-72786** is considered an open court matter.

Prematurely releasing documentation prior to the closure of that matter may lead to sensitive and/or intimate details becoming public. This could cause potential hazards, including but not being limited to: tainting potential witness testimony and/or making it difficult to locate cooperative witnesses for fear of retaliation. In addition if one believes their provided information may be released difficulties could arise for investigators as they must then determine the validity of additional information received after its release.

Additionally, in regards to the open investigation, releasing documentation on an individual not yet charged with a criminal offense could be considered a violation of their expectation of privacy and could lead to a disadvantage for law enforcement personnel as there may be the potential for evidence to be altered and/or destroyed if and/or when an unknown and/or potential suspect becomes aware of information contained within an ongoing investigation.

However, in a good faith effort to provide documentation responsive to your request our office has provided the corresponding public’s copy of the reports, the dispatch logs and issued citations associated with the above referenced incidents. Additional documentation associated with these incidents, including the body worn camera footage, is currently unavailable pursuant to **KRS 61.878(1)(h)** which states:

*Records of law enforcement agencies or agencies involved in administrative adjudication that were compiled in the process of detecting and investigating statutory or regulatory violations if the*

*disclosure of the information would harm the agency....by premature release of information to be used in a prospective law enforcement action or administrative adjudication. Unless exempted by other provisions of KRS 61.870 to 61.884, public records exempted under this provision shall be open after enforcement action is completed or a decision is made to take no action; ...*

Our agency must also consider the adjudication process, as premature release of information may make prosecution more difficult by tainting jury pools with preliminary information. Therefore, a case matter is considered closed by our agency either when prosecution is declined, the Final Order is submitted to the court clerk and entered into the record, the opportunity to appeal has expired, and/or when open appeals are decided. You may wish to submit a new request once the case is closed. If so, please refer to **OR-23-1061**.

As needed, the name of the person who made the call and telephone number from where the call was made have been redacted from the dispatch log. This information is exempt from public inspection pursuant to **KRS 65.752(4)** and **KRS 61.878(1)(a)** which states:

***KRS 65.752(4)** states in areas where enhanced 911 service has been implemented, an employee of a PSAP shall not retrieve or disclose ALI information except in response to a 911 call or for the purpose of maintaining the ALI database, unless ordered by a court of competent jurisdiction. This section is incorporated into the Open Records Act pursuant to **KRS 61.878(1)(a)** in which releasing public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy. Furthermore, in [Bowling v. Brandenburg] it was clearly stated that the releasing of 911 tapes seeking police assistance would have a chilling effect on those who might seek assistance because they may become subject to potential retaliation, harassment, or public ridicule.*

All case sensitive information has been removed from the dispatch logs pursuant to the above stated **KRS 61.878(1)(h)**.

The released citations have been redacted pursuant to the above stated **KRS 61.878(1)(a)**.

The Attorney General has stated that a request for “any and all records” which contain a name, a term or a phrase is not a properly framed open records request, and that it generally need not be honored. Such a request places an unreasonable burden on the agency to produce often incalculable numbers of widely dispersed and ill-defined public records. 00-ORD-132. Furthermore, the Attorney General has stated that the Open Records Act was not intended to provide a requestor with particular information or to require public agencies to compile information to conform to the parameters of a given request. 00-ORD-07.

Our office cannot ascertain the nature and scope of your request. Unless your request is clarified, innumerable employee hours will be spent searching for undefined records. Once your request is clarified, a search can be conducted. Therefore, your request for all records “known to exist” is denied pursuant to **KRS 61.872(6)** which states:

*“If the application places an unreasonable burden in producing public records...the official custodian may refuse to permit inspection of the public records...”*

The Lexington Police Department has completed your request. Since you provided an email address, this letter and the released documents have been emailed to you **at no charge**.

If you have any questions or need anything further, please contact our office.

Respectfully,

Shannon Potter Penegor  
Assistant Records Custodian  
Lexington Police Department  
(859) 258-3652