



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 28, 2015

Ms. Aimee Alcorn  
Assistant City Attorney  
City of Corpus Christi  
P.O. Box 9277  
Corpus Christi, Texas 78469-9277

OR2015-17998

Dear Ms. Alcorn:

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# 577482 (City File Number 670).

The Corpus Christi Police Department (the "department") received a request for a copy of a video recording of a certain booking at the city jail. You claim that the submitted information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

We must address the department's procedural obligations under section 552.301 of the Government Code when requesting a decision from this office under the Act. Pursuant to section 552.301(b), within ten business days after receiving a written request, a governmental body seeking to withhold requested public information must request a ruling from this office and state the exceptions to disclosure that apply. Gov't Code § 552.301(b). You state the department received the request for information on June 8, 2015. Accordingly, the ten-business-day deadline was June 22, 2015. However, you submitted the information required under section 552.301(b) in an envelope bearing a post-office cancellation mark of June 24, 2015. *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). Consequently, we find the department failed to comply with section 552.301 of the Government Code.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with section 552.301 results in the legal presumption the requested information is public and must be released unless a compelling reason exists to withhold the information

from disclosure. *See id.* § 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, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); *see also* Open Records Decision No. 630 (1994). Generally, a compelling reason to withhold information exists where some other source of law makes the information confidential or where third-party interests are at stake. Open Records Decision No. 150 at 2 (1977). The department claims section 552.103 of the Government Code for the submitted information. However, this exception is discretionary in nature; it serves to protect a governmental body's interests and may be waived. As such, it does not constitute a compelling reason to withhold information. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103). Accordingly, the department may not withhold any portion of the submitted information under section 552.103 of the Government Code. As you have not claimed any other exceptions to disclosure, the department must release the requested information to the requestor.

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,



Kay Hastings  
Assistant Attorney General  
Open Records Division

KH/sdk

Ref: ID# 577482

Enc. Submitted information

c: Requestor  
(w/o enclosures)