



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 7, 2016

Mr. Marc J. Schnall  
Counsel for the City of Selma  
Langley & Banack, Inc.  
745 East Mulberry, Suite 900  
San Antonio, Texas 78212

OR2016-20235

Dear Mr. Schnall:

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# 625474.

The City of Selma (the "city"), which you represent, received a request for 9-1-1 calls, dash camera video recordings, and audio recordings pertaining to a specified accident. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we must address the city's procedural obligations under section 552.301 of the Government Code with respect to the requested 9-1-1 calls. Pursuant to section 552.301(e), a governmental body must submit to this office within fifteen business days of receiving an open records request (1) written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. Gov't Code § 552.301(e). You state the city received the request for information on June 22, 2016. However, as of the date of this ruling, you have not submitted a copy or representative sample of the information responsive to the portion of the request

seeking 9-1-1 calls. Consequently, we find the city failed to comply with section 552.301 of the Government Code with respect to the 9-1-1 calls.

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). Although you raise a mandatory exception to disclosure of the information at issue, because the city has not submitted the requested 9-1-1 calls for our review, we have no basis for finding the 9-1-1 calls are excepted from disclosure or confidential by law. Thus, we have no choice but to order the city to release the requested 9-1-1 calls pursuant to section 552.302. If you believe the information is confidential and may not lawfully be released, you must challenge this ruling in court pursuant to section 552.324 of the Government Code.

Next, we note the submitted information includes a police officer's body worn camera recording. Body worn cameras are subject to chapter 1701 of the Occupations Code. Chapter 1701 provides the procedures a requestor must follow when seeking a body worn camera recording. Section 1701.661 provides, in relevant part, the following:

(a) 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). In this instance, the requestor does not provide the requisite information under section 1701.661(a). As the body worn camera recording at issue was not properly requested pursuant to chapter 1701, our ruling does not reach this information and it need not be released. However, pursuant to section 1701.661(b), a "failure to provide all the information required by [s]ubsection (a) to be part of a request for recorded information

does not preclude the requestor from making a future request for the same recorded information.” *Id.* § 1701.661(b).

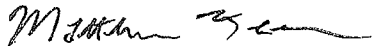
Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s or driver’s license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release. Gov’t Code § 552.130(a). Upon review, we find the remaining video recording contains information subject to section 552.130. You state the city does not have the technological capability to redact the motor vehicle record information from the recording. Accordingly, the city must withhold the remaining submitted information in its entirety under section 552.130 of the Government Code. *See* Open Records Decision No. 364 (1983).

In summary, the city must release the requested 9-1-1 calls pursuant to section 552.302 of the Government Code. Pursuant to section 1701.661 of the Occupations Code, our ruling does not reach the body worn camera recording and it need not be released. The city must withhold the remaining submitted information in its entirety 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.

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,



Matthew Taylor  
Assistant Attorney General  
Open Records Division

MHT/dls

Ref: ID# 625474

Enc. Submitted documents

c: Requestor  
(w/o enclosures)