



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 3, 2016

Ms. Elizabeth Lutton
Legal Advisor
County of Dallas
133 North Riverfront Boulevard, LB-31
Dallas, Texas 75207-4313

OR2016-24514

Dear Ms. Lutton:

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# 633143.

The Dallas County Sheriff's Department (the "department") received a request for dash camera video recordings, 9-1-1 calls, and photographs pertaining to a specified incident involving the requestor's client. The department states it will release some information. The department claims the requested information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions the department claims and reviewed the submitted information.

Initially, we note the requestor only seeks dash camera video recordings, 9-1-1 calls, and photographs pertaining to the specified incident. We note the submitted information does not consist of this information. Accordingly, the submitted information is not responsive to the instant request. This ruling does not address the public availability of non-responsive information, and the department is not required to release such information in response to this request.¹

¹As we are able to make this determination, we need not address the department's arguments against disclosure of this information.

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. *See* Gov't Code § 552.301. 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. *See id.* § 552.301(e). As of the date of this ruling, the department has not submitted to this office a copy or representative sample of any of the requested information. 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 submit to this office the information required in section 552.301 results in the legal presumption that the information is public and must be released. Information that is presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *See 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); Open Records Decision No. 319 (1982). Normally, 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. *See* Open Records Decision No. 150 at 2 (1977). Sections 552.103 and 552.108 are discretionary exceptions to disclosure that protect a governmental body's interests. *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); Open Records Decision No. 177 (1977) (statutory predecessor to section 552.108 subject to waiver); *see also* Open Records Decision No. 522 (1989) (discretionary exceptions in general). Consequently, to the extent the requested information exists, the department may not withhold any of it under section 552.103 or 552.108 and must release it 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, 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,



Rahat Huq
Assistant Attorney General
Open Records Division

RSH/som

Ref: ID# 633143

Enc. Submitted documents

c: Requestor
(w/o enclosures)