



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 17, 2017

Ms. Rachel E. Klaus
Records Technician
Bastrop Police Department
104 Grady Tuck Lane
Bastrop, Texas 78602

OR2017-07991

Dear Ms. Klaus:

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# 656624.

The Bastrop Police Department (the "department") received a request for 9-1-1, body worn camera, and dash-cam video recordings pertaining to a specified investigation. The department states it does not have the requested 9-1-1 call recordings.¹ The department also states it is withholding the requested body worn camera recording pursuant to chapter 1701 of the Occupations Code. *See* Occ. Code ch. 1701 (providing procedures requestor must follow when seeking body worn camera recording). The department claims the requested dash-cam recordings are excepted from disclosure under section 552.108 of the Government Code. We have considered the claimed exception.

We must address the procedural obligations of the department under section 552.301 of the Government Code, which prescribes the procedures that a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Pursuant to section 552.301(e)(1)(D), a governmental body must submit to this office within fifteen business days of receiving an open records request a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply

¹The Act does not require a governmental body to disclose information that did not exist when the request for information was received. *See generally Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed).

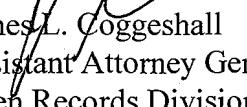
to which parts of the documents. Gov't Code § 552.301(e)(1)(D). The department received the request for information on February 15, 2017. However, as of the date of this letter, the department has not submitted a copy or representative sample of the requested dash-cam video recordings. Therefore, the department failed to comply with the procedural requirements mandated by section 552.301(e).

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless the governmental body demonstrates a compelling reason 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 (Tex. App.—Austin 1990, no writ); *see also* Open Records Decision No. 630 (1994). The department has failed to establish a compelling reason to overcome the presumption that the information is public. Therefore, the department must release the requested dash-cam videos in accordance with section 552.302 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, 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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/bw

Ref: ID# 656624

c: Requestor