



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 27, 2017

Ms. Leslie A. Whitten
Assistant City Attorney
Legal Department
City of College Station
P.O. Box 9960
College Station, Texas 77842

OR2017-08991

Dear Ms. Whitten:

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# 655171 (Your File# A17-000014).

The College Station Police Department (the "department") received a request for a specified body camera video recording. You claim the submitted information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the submitted information consists of a department 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(a) provides:

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 provided the requisite information under section 1701.661(a) for the body worn camera recording. Section 1701.662 of the Occupations Code provides, in relevant part:

(a) Notwithstanding Section 552.301(b), Government Code, a governmental body's request for a decision from the attorney general about whether a requested body worn camera recording falls within an exception to public disclosure is considered timely if made not later than the *20th business day* after the date of receipt of the written request.

See id. § 1701.662(a) (emphasis added). Pursuant to section 552.301(b), a governmental body is required to ask for a decision from this office and state which exceptions apply to the requested information within ten business days after receipt of the request for information. Gov't Code § 552.301(b). Thus, section 1701.662(a) overrides section 552.301(b)'s time deadline for seeking a decision from this office and stating which exceptions apply. The department received the proper request for the body camera recording on January 5, 2017. We note January 16, 2017 was a holiday for the City of College Station. This office does not count the date the request was received or holidays for the purpose of calculating a government body's deadline under the Act. Accordingly, pursuant to section 1701.662(a), you were required to provide the required information by February 3, 2017. However, the envelope in which you provided the required information was meter-marked February 17, 2017. *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). Accordingly, we conclude the department failed to comply with the time requirements of section 1701.662(a) of the Occupations Code.

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 there is a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342 (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). You claim sections 552.103 and 552.108 of the Government Code for the information at issue. However, we find you have failed to establish a compelling reason to address your exceptions. We note section 552.130 of the Government Code can provide a compelling

reason to overcome the presumption of openness.¹ Therefore, we will address the applicability of this section to the submitted information.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130. Upon review, we find the department must withhold the discernible and audible motor vehicle record information in the submitted video recording under section 552.130 of the Government Code. The department must release the remaining information.

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,



Kelly McWethy
Assistant Attorney General
Open Records Division

KSM/sb

Ref: ID# 655171

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).