



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 18, 2017

Mr. Thomas M. Gilliland
Public Information Officer
Harris County Sheriff's Office
1200 Baker Street, 2nd Floor
Houston, Texas 77002-1206

OR2017-28653

Dear Mr. Gilliland:

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# 688414 (HCSO File No. 17SO5001028).

The Harris County Sheriff's Office (the "sheriff's office") received a request for dash camera video recordings, body camera video recordings, and 9-1-1 audio recordings pertaining to a specified incident. The sheriff's office states it will release some information to the requestor. The sheriff's office claims the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the request seeks police officer's body worn camera recordings. 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 requested body worn camera recordings were 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).

Next, we note Exhibit B is not responsive to the instant request because it does not consist of the requested video or audio recordings. This ruling does not address the public availability of the non-responsive information and the city need not release it in response to the request. Additionally, we note the sheriff’s office has not submitted information responsive to the portion of the request for the 9-1-1 audio recordings. Although the sheriff’s office states it has submitted a representative sample of the requested information, we find the submitted information is not representative of all the types of information to which the requestor seeks access. Please be advised, this open records letter ruling applies only to the types of information you have submitted for our review. This ruling does not authorize the sheriff’s office to withhold any information that is substantially different from the types of information you submitted to this office. *See* Gov’t Code § 552.302 (where request for attorney general decision does not comply with requirements of Gov’t Code § 552.301, information at issue is presumed to be public). Accordingly, to the extent any such information existed on the date the sheriff’s office received the request, we assume the sheriff’s office has released it. If the sheriff’s office has not released any such information, it must do so at this time. *See id.* §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

We must also address the sheriff’s office’s obligations under the Act. Section 552.301 of the Government Code prescribes the procedures that 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(b), a governmental body must ask for a decision from this office and state the exceptions that apply within ten business days of receiving the written request. *See id.* § 552.301(b). The sheriff’s office received the request for information on September 25, 2017. The sheriff’s office does not inform us it was closed for any business days between September 25, 2017, and October 9, 2017. This office does not count the date the request was received or holidays for purposes of calculating a governmental body’s deadlines under the Act. Accordingly, the sheriff’s office was required to provide the information required by section 552.301(b) by October 9, 2017. However, the

envelope in which the sheriff's office provided the information required by section 552.301(b) was postmarked October 10, 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). Consequently, we conclude the sheriff's office failed to comply with the procedural requirements mandated by section 552.301 of the Government 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). The sheriff's office claims section 552.108 of the Government Code for Exhibits B1 and B2. However, we find the sheriff's office has failed to establish a compelling reason to address its claimed exception. However, 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 section 552.130 to Exhibits B1 and B2.

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. Accordingly, the sheriff's office must withhold the visible and audible license plates within Exhibits B1 and B2 under section 552.130 of the Government Code.

In summary, pursuant to section 1701.661 of the Occupations Code, our ruling does not reach the requested body worn camera recordings and they need not be released. The sheriff's office must withhold the visible and audible license plates within Exhibits B1 and B2 under section 552.130 of the Government Code. The sheriff's office must release the remaining responsive information.

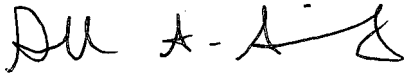
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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/>

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

[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,

A handwritten signature in black ink, appearing to read "GAA" followed by a stylized flourish.

Gerald A. Arismendez
Assistant Attorney General
Open Records Division

GAA/tdw

Ref: ID# 688414

Enc. Submitted documents

c: Requestor
(w/o enclosures)