



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 14, 2019

Mr. Luke A. Cochran  
Counsel for the City of Sundown  
Law Office of Cary L. Bovey, PLLC  
2251 Double Creek Drive, Suite 204  
Round Rock, Texas 78664

OR2019-04333

Dear Mr. Cochran:

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# 750425.

The City of Sundown (the "city"), which you represent, received a request for video recordings from a specified incident. You claim the submitted information was not properly requested under chapter 1701 of the Occupations Code. We have considered your argument and reviewed the submitted information.

Initially, we note the submitted information includes a city 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 does not give the requisite information under section 1701.661(a). As the requestor did not properly request the body worn camera recording at issue 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 Subsection (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). We note the remaining information, which consists of a dash camera recording, is not subject to section 1701.661 of the Occupations Code, and the city may not withhold any portion of the remaining information on that basis.

Next, we must address the city’s procedural obligations under the Act. Section 552.301 describes the procedural obligations placed on a governmental body that receives a written request for information it wishes to withhold. Pursuant to section 552.301(b), the governmental body must ask for the attorney general’s decision and state the exceptions that apply within ten business days after receiving the request. *See* Gov’t Code § 552.301(a), (b). In this instance, you state, and submit documentation demonstrating, the city received the request for information on November 13, 2018. This office does not count the date the request was received or holidays for the purpose of calculating a governmental body’s deadlines under the Act. Accordingly, the city’s ten-business-day deadline was November 29, 2018. However, you did not request a ruling from this office until December 5, 2018. *See id.* § 552.308 (describing rules for calculating submission dates of documents sent via first class United States mail). Consequently, we find the city failed to comply with the requirements of section 552.301 in requesting this decision from our office with respect to the remaining information.

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, 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). Section 552.130 of the Government Code can provide a compelling reason to overcome the presumption of openness.<sup>1</sup> Therefore, we will address the applicability of section 552.130 to the submitted information.

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<sup>1</sup>The 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).

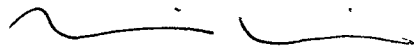
Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130. We note section 552.130 protects privacy interests. Accordingly, the requestor has a right of access to her motor vehicle record information pursuant to section 552.023 of the Government Code, and it may not be withheld from her under section 552.130. *See id.* § 552.023(a) ("person or a person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and that is protected from public disclosure by laws intended to protect that person's privacy interests"); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). Accordingly, with the exception of the information belonging to the requestor, the city must withhold any discernible license plate numbers in the remaining information under section 552.130 of the Government Code.

In summary, pursuant to section 1701.661 of the Occupations Code, the submitted body worn camera recording was not properly requested by the requestor pursuant to chapter 1701 of the Occupations Code and need not be released to the requestor. With the exception of the information belonging to the requestor, the city must withhold any discernible license plate numbers in the remaining information under section 552.130 of the Government Code. The remaining information must be released.

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,



Melanie Villars  
Assistant Attorney General  
Open Records Division

MJV/eb

Ref: ID# 750425

Enc. Submitted documents

c: Requestor  
(w/o enclosures)