



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 2, 2019

Ms. Cecilia Gamez  
Crime Records Office  
McAllen Police Department  
P.O. Box 220  
McAllen, Texas 78505-0220

OR2019-33620

Dear Ms. Gamez:

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# 800538.

The McAllen Police Department (the "department") received a request for video recordings pertaining to a specified case. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, 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). The department received the request for information on September 17,

2019. The department does not inform us it was closed for any business days between September 17, 2019, and October 8, 2019. Accordingly, the department was required to provide the information required by section 552.301(e) by October 8, 2019. However, the envelope in which the department provided a copy of the request for information required by section 552.301(e) was postmarked October 11, 2019. *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 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). You claim section 552.108 of the Government Code for the submitted information. We find you have failed to establish a compelling reason to address this exception to disclosure. However, sections 552.101 and 552.130 of the Government Code can provide compelling reasons to overcome the presumption of openness. Therefore, we will address the applicability of sections 552.101 and 552.130 to the submitted information.

Section 552.130 excepts from disclosure 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. You assert, and we agree, the submitted video recordings contain audible and visible motor vehicle record information that is excepted from disclosure under section 552.130 of the Government Code. We note the audio portion of the recordings is intertwined with the video portion of the recordings. In this instance, you state the department does not possess the technological capability to redact information from video files. Thus, we agree the department must withhold the submitted video recordings in their entireties under section 552.130 of the Government Code.<sup>1</sup>

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

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<sup>1</sup> As our ruling is dispositive, we need not address your remaining argument against disclosure of the submitted information.

responsibilities, please visit our website at <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Matthew Taylor  
Assistant Attorney General  
Open Records Division

MHT/jxd

Ref: ID# 800538

Enc. Submitted documents

c: Requestor  
(w/o enclosures)