



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 19, 2019

Mr. Albert E. Tovar
Via Metropolitan Transit
Office of General Counsel
123 North Medina Street
San Antonio, Texas 78207

OR2019-36056

Dear Mr. Tovar:

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# 809060.

VIA Metropolitan Transit ("VIA") received a request for information pertaining to a specified incident. You state VIA will release some information. You claim the submitted information is excepted from disclosure under sections 552.103 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we must address VIA's procedural obligations under section 552.301 of the Government Code when requesting a decision from this office under the Act. Pursuant to section 552.301(b), within ten business days after receiving a written request the governmental body must request a ruling from this office and state the exceptions to disclosure that apply. *Id.* § 552.301(b). You state VIA received the request for information on October 30, 2019. You inform us VIA was closed on November 11, 2019. 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, VIA's ten-business-day deadline was November 14, 2019. However, you submitted the information required under section 552.301(b) in an envelope bearing a post-office mark of November 15, 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). Consequently, we find VIA failed to comply with section 552.301 of the Government Code.

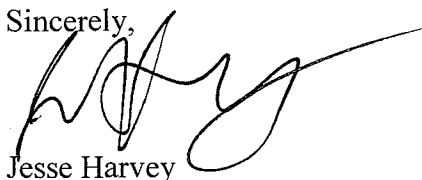
Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 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). VIA claims sections 552.103 and 552.130 of the Government Code for the submitted information. Because section 552.130 can provide a compelling reason to overcome the presumption of openness, we will address your argument under this section for the submitted information. However, we find you have failed to establish a compelling reason to address your remaining exception.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release. Gov't Code § 552.130(a). Upon review, we agree the submitted video recording contains information subject to section 552.130. You state VIA does not have the technological capability to redact the motor vehicle record information from the video recording at issue. Accordingly, VIA must withhold the submitted video recording in its entirety under section 552.130 of the Government Code. *See* Open Records Decision No. 364 (1983).

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 <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,



Jesse Harvey
Assistant Attorney General
Open Records Division

JHI/mo

Mr. Albert E. Tovar - Page 3

Ref: ID# 809060

Enc. Submitted documents

c: Requestor
(w/o enclosures)