



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

November 16, 2020

Mr. Michael T. Garner  
Assistant City Attorney  
City of Conroe  
P.O. Box 3066  
Conroe, Texas 77305

OR2020-28598

Dear Mr. Garner:

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# 854067.

The City of Conroe (the "city") received a request for information pertaining to a specified motor vehicle accident. You state the city is releasing some of the requested information, including the redacted police officer's crash report pursuant to section 550.065(c-1) of the Transportation Code. *See* Transp. Code § 550.065(c-1) (providing for release of redacted accident report to person or entity not listed under subsection (c)). You claim some of the submitted information was not properly requested pursuant to chapter 1701 of the Occupations Code. You also claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code.<sup>1</sup> We have considered your arguments and reviewed the submitted information.

As you acknowledge, the submitted information includes a law enforcement 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 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:

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<sup>1</sup> Although the city does not cite to section 552.101 of the Government Code in its brief, we understand it to raise this section based on the substance of its arguments.

- (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 body worn camera recording at issue was not properly requested pursuant to chapter 1701, our ruling does not reach this information and it need not be released.<sup>2</sup> 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 must address the city’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 city received the request for information on September 1, 2020. We note 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. We understand September 7, 2020, was a holiday for the city; therefore, the fifteen-business-day deadline was September 23, 2020. However, the envelope in which the city provided our office with a copy of the written request for information as required by section 552.301(e) was meter-marked October 30, 2020. *See id.* § 552.308 (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 city failed to comply with the procedural requirements mandated by section 552.301(e) 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 city claims section 552.108 of the Government Code for the information at issue. However,

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<sup>2</sup> As we are able to make this determination, we need not address the city’s arguments against disclosure of this information.

we find the city has failed to establish a compelling reason to address this exception. Because section 552.130 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will address the applicability of this section to the information at issue.<sup>3</sup>

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 city must withhold any discernible license plates 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 body worn camera recording at issue and it need not be released. The city must withhold any discernible license plates under section 552.130 of the Government Code. The city 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 <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,

Michelle Garza  
Assistant Attorney General  
Open Records Division

MRG/jm

Ref: ID# 854067

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>3</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).